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Vol. 16



IN THE MATTER OF The Public Inquiries Act, being Chapter 258 of The Revised Statutes of Alberta, 1955, and Amendments thereto; and,

IN THE MATTER OF an Inquiry by a Royal Commission into the matters set out in Order-in-Council 861/67 respecting the use or attempted use by the Honourable Alfred J. Hooke of his office as a member of the Executive Council of Alberta, and the use or attempted use by Edgar W. Hinman of his office as a member of the Executive Council of Alberta.

PROCEEDINGS BEFORE
THE HONOURABLE MR. JUSTICE
W. J. C. KIRBY

C. W. CLEMENT, Esq., Q.C.,	Commission Counsel
S. A. FRIEDMAN, Esq., Q.C.,	Departments of Government
S. H. McCUAIG, Esq., Q.C.	E. W. Hinman, Esq.
L. MAYNARD, Esq., Q.C.,	The Honourable Alfred J. Hooke
W. B. GILL, Esq., Q.C.,	G. A. Turcott, Esq.
	Mr. Neil Reimer
G. A. C. STEER, Esq., Q.C.	Dr. C. A. Allard
D. H. BOWEN, Esq., Q.C.	Liberal Association of Alberta
N. S. CRAWFORD, Esq., and	Progressive Conservative Party of
J. D. HILL, Esq.	Alberta
G. S. D. Wright, Esq.	Alberta New Democratic Party

W. ALAN SHORT, ESQ.,
Clerk to the Commission.

VOLUME No. 16

DATE October 5th, 1967

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Supreme Court Reporters

EDMONTON, ALBERTA

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ELBORNE ROBERT HUGHES

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H. Lash - Wright Ex.

PROCEEDINGS before The Honourable
Mr. Justice W. J. C. Kirby, this
5th day of October, A.D., 1967, at
9:00 o'clock in the morning, at the
Court House, in the City of Edmonton,
Province of Alberta.

HARRY LASH, recalled, examined by Mr. Wright:

THE COMMISSIONER: Mr. Wright?

Q MR. WRIGHT: Mr. Lash, you told us yesterday that
it was in the absence of Mr. Gerhart that the Municipal
District of Strathcona withdrew, and that Mr. Gerhart was
upset about this when he got back and found out what had
happened; now, did Mr. Gerhart indicate or was there a
precedent to indicate what would have happened had the
municipality made that request to Mr. Gerhart, what would
he have done about it?

A Now -

MR. CLEMENT: Again, sir, to reach into somebody
else's mind and guess what might have happened had
circumstances been different seems to me to be going a
little beyond useful evidence.

Q MR. WRIGHT: Yes, I am asking if Mr. Gerhart had told
him.

A No.

Q Was Mr. Judge consulted at the time? Was he the Deputy
Minister?

A Yes, he was the Deputy Minister and I don't know whether he
was consulted.

Q Were you aware of any provision in law that allowed the

1-B-2

H. Lash - Wright Ex.

Q (Cont.) Cabinet to override the Provincial Planning Advisory Board?

A Well, the reading of the Act of the time to me seemed to say that the withdrawal of the municipality or the formation -

Q No, I have got beyond that now, it is quite clear I think how the, well, no, will you just finish that question, that answer you are giving?

A Well, the Act I believe said that the Lieutenant Governor in Council could change the membership in the Commission on the recommendation of the Planning Advisory Board.

Q Yes, fine, yes, on the recommendation of the Provincial Planning Advisory Board?

A Yes.

Q I see, thank you. And, of course, there was no recommendation in this case.

A No, I certainly remember no recommendation.

Q No, but my question had shifted on to the Cabinet approving the outline plan of Campbelltown; were you at that time aware of any provision that allowed them to do this?

A I don't think there was any specific provision, no.

Q The only provisions made were for the, if it was not a matter within the jurisdiction of the Edmonton District Planning Commission was for the Provincial Planning Advisory Board to do this function, is that correct?

A Yes.

Q And you have told us that this operation was unique in this case?

1-B-3

H. Lash - Wright Ex.

A Yes.

Q And I presume that was the reason you would not sign at that time or felt you couldn't?

A Yes.

Q With the exception of Mr. Holloway, assuming you can call him a professional planner, all the professional planners were against Campbelltown, is this correct?

A Well, all of the planners having an interest in the matter, yes.

Q Yes, yes, I am talking about those who had something to do with it?

A Yes.

Q Other than the American ones employed by the developers, of course?

A Yes.

Q The Edmonton District Planning Commission could approve plans, at least had no power to approve plans which were not strictly in accordance with the subdivision regulations?

A That is correct.

MR. CLEMENT: Mr. Commissioner, I have just shown Mr. Wright one more Minute of the Provincial Planning Advisory Board which was found after a thorough search by Mr. Dant, a Minute relating to Campbelltown. You will recall there are a substantial number of Minutes already in evidence, and this is an additional one which has now been located.

MR. WRIGHT: It might as well be marked, My Lord.

It is a Minute of a meeting of the Provincial Planning

1-B-4

H. Lash - Wright Ex.

MR. WRIGHT: (Cont.) Advisory Board dated the 14th of June 1955; present, Mr. Hinman, Mr. Judge, Mr. Lash; one of the matters dealt with was Campbelltown; and the Board considered a letter and memorandum from Harman, O'Donnell and Henninger and:

"It was pointed out that one of the chief difficulties in arriving at a conclusion and satisfactory layout is that the development company's proposal is based on a large overall plan."

and:

"The Board confirmed its previous opinion ... that this proposal must be regarded as a self-contained community in Section 27 and not as one unit of the overall plan."

which evidently embraced more than one section.

" ... it will be necessary to wait until July when it will be possible to make a further study and report to the Executive Council. In the meantime a small subdivision of a few lots in the plan to allow the building of show houses was approved."

THE COMMISSIONER: Exhibit 261.

MINUTE OF THE PROVINCIAL PLANNING
ADVISORY BOARD, JUNE 14th, 1955,
MARKED EXHIBIT 261.

Q MR. WRIGHT: The memorandum marked 9 in file Exhibit 187 was prepared by whom, Mr. Lash?

A This was prepared by myself.

Q And was it the text of a motion to present and a statement

1-B-5

H. Lash - Wright Ex.

Q (Cont.) to be made to the Edmonton District Planning Commission?

A Yes, which I proposed to be made.

Q Yes?

A As a suggested course of action.

Q Yes, did you make that proposal to the Edmonton District Planning Commission?

A No.

Q Any particular reason why not?

A It was discussed with the Minister and the Deputy Minister and it was felt that it was not appropriate that the Provincial Government through its representative on the Commission take a positive action on this matter.

Q Yes, and the date of that was, was about when?

A Well, I don't know. There is a note here says "Around December '52." but I think this has been added.

Q That is Mr. Dant's note, the dating?

A Yes.

THE COMMISSIONER: Have you identified that item by number, Mr. Wright?

Q MR. WRIGHT: Yes, I did, it is item numbered 9 in the Exhibit.

And can you just tell us the gist of that proposed motion?

A The gist of the motion was that, that the matter of the townsite, Campbelltown townsite development, be tabled until the McNally Commission on the municipal problems, on the

1-B-6

H. Lash - Wright Ex.

A (Cont.) metropolitan problems of Calgary and Edmonton had been established and all its Hearings, and had come to a conclusion.

Q Yes. Can you explain the gap in that file between the 26th of June 1955 or thereabouts until January of 1957?

I may be slightly wrong in that date in '55, but there is a large gap there. No, I think it is from the 23rd of September 1955.

1-P-1

H. Lash - Wright Ex.

A The last item, October 5th, '55 and until January 28th, '57.

Q Yes. You can't remember if there was -- well, there must have been activity in that time?

A Well, I really don't remember other than going through the complete Board Minutes in Mr. Dant's office yesterday.

Q Yes?

A I did notice that this, the McNally Commission had been established and during this time Strathcona rejoined the Edmonton District Commission and all this was going on and in the meantime certain plans of subdivision as shown by the chart were approved and development was proceeding on the site.

Q Yes, so perhaps the explanation is that during much of that time the Edmonton District Planning Commission re-appeared and was dealing with the day to day business?

A No, I don't think this would necessarily be the case.

Q Well in other words, you can't satisfactorily explain that gap in the file?

A But I don't think there is anything to be explained on the file.

Q Oh?

A I mean, this gap is --

Q Thirteen or fourteen months?

A Yes, but, a certain development had been approved.

Q Yes?

A And tentative. Show houses were being built on the first

1-P-2

H. Lash - Wright Ex.

A (cont.) subdivision and other subdivisions were being filed. Now, those final plans for the individual survey of the lots had to be signed by me but there would be no need whatever that that appear on the file.

Q Oh, that is what I am getting at, yes, even though plans of subdivision came through there wouldn't necessarily be anything remaining on the file?

A No because the plan would be presented, it would be checked by my staff as to conformity with the tentative plan that had been approved and then I would certify what was approved.

Q Yes. Will you turn to the letter or, copy of the letter, numbered 32 in the file, of the 4th of March, 1967?

A Yes.

Q That is a letter from Mr. Hooke to Trowbridge Associates Limited, is that their name?

A Yes.

Q Stating amongst -- well, the main point of it is that Trowbridge had complied with the Act so far as dedication of, whatever it is called, urban reserve or something, is that what it is called? It is the ten percent dedication?

A Ten percent dedication of public reserves, yes.

Q That's right, is concerned, and so far as the contribution of the school board or municipality to improvements put in by the developer fronting a school or other municipal place?

A Yes.

Q The school board or the municipality should make some

1-P-3

H. Lash - Wright Ex.

Q (cont.) contribution to the developer, is that not the purport of the letter?

A I would --

Q Well, you can read out the exact part if you like and, I will point it out to you.

A Yes. Yes, this was the responsibility of the developer, subdivider, insofar as the law was concerned was simply to provide the land and to indicate the streets and public reserve which then became Crown property.

Q Yes?

A He had no responsibility to construct sidewalks or any other improvements on those under the Planning Act and the Subdivision Regulations.

Q Well, in this case though it was a term of his permission that he should construct the streets and sidewalks in order to get the subdivision, was it not?

A The position was that the approval of the subdivision was contingent upon him agreeing or having an agreement with the municipality.

Q Yes?

A As to what he was going to construct and this apparently was something that had not been taken into account when the agreement was made and they were trying to discover a basis for negotiation on it.

Q Well, are you quite sure about that? Was it not the case that the agreement called for the developer to construct

1-P-4

H. Lash - Wright Ex.

Q (cont.) the roads and sidewalks along the subdivisions as they went in but, what had been overlooked or at least, what had not been treated was the contribution that the school board or municipality would make in respect to improvements running along in front of a school or other municipal --

A Yes, that may be.

Q Yes, and in point of fact, if you turn on to April or May, you wrote for Mr. Friedman's opinion did you not on this point and Mr. Friedman said that the developer had no right to try and collect anything from the School Board or municipality? That is number 35.

A Yes, that is right.

Q So, the short point is and, I hope I am not labouring it, that Mr. Hooke was stating it was fair that the School Board and the municipality should contribute but they did have no obligation to in point of fact?

A Yes.

Q Mr. Hooke in your meetings with him was a champion of Campbelltown, not that you met with him very often, mind you?

A I think that is going too far to call him a champion.

Q Well all right, he was pushing it?

A I think it is clear that when Mr. Hooke was Minister of Municipal Affairs the position had already been reached that there was going to be a development in this area and in this sense, there was nothing to -- there was no question raised.

Q Of whether it would be there at all?

A Yes.

1-P-5

H. Lash - Wright Ex.

Q Oh yes, I quite agree, I meant the difficulties that arose with respect to --

A Payment of the improvements and so on?

Q Well, that was one thing but also the subdivision regulations at an earlier stage would be another?

A Yes, but this was the basis of a reasonable discussion as I recall.

Q Yes, but certainly he didn't excuse himself from discussing it on the ground that he owned the land?

A No.

Q And what was the relationship that you observed if you did observe any particular relationship between Mr. Hooke and Mr. Holloway?

A I have no --

Q And between Mr. Hooke and Mr. Campbell?

A It was Mr. Campbell who had access to Mr. Hooke and was able to see him and so on, quite freely.

Q Yes, and did this freedom go beyond the freedom accorded any other individual you can think of during your time there, in point of frequency? By individual I mean a member of the public?

A I think I am getting into comparisons. I know myself would see some people much more easily than others because the meetings would be more productive as far as I was concerned and with other people I wasn't going to get anywhere any way and I think the Minister probably had the same view about the frequency of this association.

1-P-6

H. Lash - Wright Ex.

Q Yes, well, there may be a dozen reasons for variations but I am just asking the simple question?

A I think it would be fair to say that Mr. Campbell found it easier to get into the Minister's office than other people or, most other people.

Q Yes, and is there any doubt in your mind Mr. Lash, looking back on it all, that if it hadn't been for the interest in this development in high places in the Government, that the development would never have occurred there?

A No, I think I am being asked to speculate on a hypothetical situation.

Q It is not hypothetical, you may not be able to answer it, of course, but you were in perhaps the best position to judge that and I want your judgment if you formed one or can form one?

MR. CLEMENT: Again, I observe Mr. Commissioner that Mr. Wright is inviting the witness to usurp your functions.

THE COMMISSIONER: Would you read the question please?

THE REPORTER: (By reading.)

" Q Yes, and is there any doubt in your mind Mr. Lash, looking back on it all, that if it hadn't been for the interest in this development in high places in the Government, that the development would never have occurred there?"

THE COMMISSIONER: Oh, I think that is a highly

1-P-7

H. Lash - Wright Ex.
- Maynard Ex.

THE COMMISSIONER: (cont.) speculative question, Mr. Wright.

I think it is highly speculative for him to conjecture what might have happened and what might not have happened. I think you are at liberty to explore this aspect of it as far as his own conduct was concerned and his own observations but I think you should put the question a little bit more factual, a more factual basis.

Q MR. WRIGHT: All right, the whole thing was thoroughly extraordinary, wasn't it?

A Yes.

Q Is there any further evidence that you wish to convey to the Commissioner regarding the aspects of the whole development that concerns pushing or, the interest from a Cabinet level in the development that you haven't already conveyed to us in answer to our questions?

A I have no further facts.

Q Yes. Thank you Mr. Lash.

THE COMMISSIONER: Mr. Maynard?

MR. MAYNARD EXAMINES THE WITNESS:

Q Mr. Lash, I am sorry to review some of the points that have already been dealt with but I will do so very briefly, simply to set the background for our discussion. I am calling it a discussion.

As I understand your evidence the main problems relating to the proposed proposal for the development of a townsite on Section 27 and in the area was first of all the question of the size that was proposed, there were several sections

1-P-8

H. Lash - Maynard Ex.

Q (cont.) involved at one time?

A There was a question of whether it should be there at all.

Q That is the next point?

A And then the size.

Q Well, maybe I am reversing them. Can we deal with the question of the size first, that was one of the problems?

A I believe the question of whether it should be there at all was the first problem, then the size because the first proposal was only for Section 27. Additional other proposals were made after the first to enlarge the area of the proposed townsite beyond Section 27.

Q Well, dealing with the question of the site first then, the site was felt to be too close to the City but finally the site was approved because Mr. Campbell refused to consider any other alternative and the municipal district was pressuring for approval?

A Yes.

Q As to the question of the size, at one time there was an application made for only Section 27, then there were various proposals for enlarging?

A Yes.

Q Then it came back to Section 27 and there were overall plans including Section 27 alone and additional area?

A Yes.

Q On this question of size, is my understanding correct, that the question of the size of the area was finally settled by

1-P-9

H. Lash - Maynard Ex.

Q (cont.) the proposal that the area should be developed piecemeal by the registration of a series of subdivision plans?

A No, I don't -- this is a -- we had a proposal for Section 27 which was self-contained. In other words, it showed the proposal for the private development and the public development required by the population that would live on that Section.

Q Yes?

A And for this there was a certain plan, tentative plan of subdivision. The enlarged proposal covering more sections, create a larger population to be eventually housed there and as I remember, the proposal of what was to be done with Section 27 in the framework of this larger one was different because Section 27 was no longer self-contained. Some of the park and some of the high school would be provided eventually in this other section but not in Section 27. So, we had a different plan for Section 27 in the two cases.

Q Yes, was the plan in Section 27, even when there was an enlarged plan, a plan consisting of a unit by itself?

A No. As I remember, the map included all of the areas that would be required to serve that population in Section 27.

1-M-1

H. Lash - Maynard Ex.

Q And one of the problems mentioned yesterday in connection with size was the marketability, that if an area was too large it was a question as to whether the lots could be marketed?

A Yes.

Q And in this respect you mentioned that even Section 27 was considered a rather large area.

A Yes.

Q To develop all at one time.

A Yes.

Q Now, I come to the question of the subdivisions. Although there were tentative plans submitted for approval involving Section 27 as a unit, and a larger area, was there in fact any tentative plan involving a subdivision of the entire Section 27 registered?

A Well, you can't register a tentative plan.

Q I'm coming to that, that's right. Was there a subdivision plan involving the whole of Section 27 ever registered?

A No, not when I was -- .

Q The map indicates quite clearly that what happened was a series of subdivision plans were registered, once the tentative plan involving Section 27 was approved.

A Yes. This is the normal way a big subdivision is developed, anyway.

Q Yes.

A Planned as a whole, and then you register as the need becomes -- .

1-M-2

H. Lash - Maynard Ex.

Q And the plan as a whole, the overall plan, although it is approved -- it may be approved -- ?

A Yes.

Q -- is never registered?

A Never registered.

Q Another problem you raised yesterday, and it was referred to again this morning, was the complication involved in the Campbelltown townsite because a Cabinet Minister owned part of the land. Have you ever seen or do you recall seeing any application forms for the registration of a subdivision or a tentative plan with Mr. Hooke's name as the owner of the land?

A Yes, I believe there is one, from what I -- before the Commission now, in which his name is indicated as one of the owners.

Q Yes, and that's the only one that you have seen?

MR. GILL: He didn't say that.

MR. MAYNARD: Well, I'm asking him.

A It's the only one I have seen here, and certainly I don't remember others at that time.

Q And do you recall what document this was?

A This was an application for approval of a tentative plan of subdivision.

Q And you don't recall what particular plan of subdivision it was?

A No. It's here, though, we can find it somewhere.

Q Well, I think you are correct -- .

1-M-3

H. Lash - Maynard Ex.

A Yes.

Q -- there's nothing bearing on it particularly; I just wanted to establish the fact that there was only one as far as you can recollect, and I think the records show this.

A Yes.

Q Were you aware that Mr. Hooke had optioned off this land?

A No.

Q Were you aware that Mr. Hooke eventually sold the land to someone else?

A No.

Q And during the course of your discussions involving Campbelltown, were you always under the impression that the land belonged in fact to Mr. Hooke?

A Yes, that was my impression.

Q That was your impression. The records indicate that the land was in fact registered in the name of Mr. Hooke, but there was never anything that came to your attention or to your knowledge about the fact that Mr. Hooke had at some time or other given an option on the lands?

A No.

Q Or that he had later even sold the land?

A No.

Q So that with this impression in mind, that the land, as far as you knew, actually in fact belonged to Mr. Hooke, this created an embarrassment to the people involved in studying Campbelltown townsite.

1-M-4

H. Lash - Maynard Ex.

A Yes.

Q And this embarrassment was due, is it fair to say, because of the political implications that might arise as a result of a Cabinet Minister owning land in the area?

A No, I don't think it was political implications that we were concerned with here.

Q There was no discussion about the political ramifications at any time in connection with this matter?

A Well, you mean that if this became known and there were an election, what would happen to the Minister or something?

Q Or to the Government.

A No.

Q That was never --- ?

A That was not my concern. I wasn't -- .

Q No, but was there ever any concern expressed of this nature in any of your discussions with Mr. Judge, Mr. Gertler, members of your staff?

A No.

Q You weren't concerned about it?

A No.

Q Now, another problem that you mentioned in connection with the proposal itself was the fact that the proposal did not conform with the regulations as they then existed --- they may even now -- I don't know -- but at least as they then existed in relation to lanes, which normally -- the absence of which normally would require an easement for utility companies for the purpose of gas lines and water lines and

1-M-5

H. Lash - Maynard Ex.

Q (Cont.) so on. Now, on this subject, Mr. Lash, it is my understanding that there are other developments in North America along the lines of Campbelltown, where there are no lanes and so on. Are you familiar with this?

A Yes.

Q This is a somewhat recent development in the evolution of town planning?

MR. CLEMENT: It's an old development in Toronto, I believe.

A This is interesting, because when I came to Alberta fresh from my training, this is one of the first things I tried to do, to persuade people that lanes were not the best way of development. I got nowhere, and I came to realize that every part of the country had its own traditions and ways of doing things, and it was better to stick to those; and consequently I had come to require lanes; and what was concerning me was not that technically you couldn't get along without lanes -- I knew this -- is that with this and other requests that were made, there was need to grant certain exemptions from subdivision regulations. You see, you had all along to consider that every time a government body does one of these things, it has to consider whether it is establishing precedent, and this is one of the main things that worried me about Campbelltown.

Q And the problem that concerns you was not so fact -- was not so much the fact that the proposal made provision for no lanes, but it was the fact that no lanes did not correspond

1-M-6

H. Lash - Maynard Ex.

Q (Cont.) with regulations.

A I made a -- I even made a suggestion at one point that the lanes be surveyed and dedicated, but not developed, under agreement with the municipality, and if it was discovered that people wanted lanes later they were there, and that this was a better way of doing it than only providing easements and in fact made no difference to the physical appearance of the layout.

Q And that situation which you just mentioned now, in fact exists in some areas in the City of Edmonton, does it not -- or are you familiar -- ?

A No, I wouldn't be familiar with that.

Q Well then, you mentioned that you tried to persuade some people that this was the type of development that should be acceptable in this area -- I'm talking -- area -- in this province, but that you got nowhere. Now, were your discussions in this connection with government officials?

A No, this would be with town councils, and people -- people generally.

Q But, of course, the town councils are faced with regulations. Did you ever make any suggestion that the regulations should be changed in order to provide the type of development, no lanes, and easements for utilities?

A Yes, I believe I did.

Q To the government authorities?

A Yes, I believe I did.

Q And your recommendations in this respect were not accepted?

1-M-7

H. Lash - Maynard Ex.

A I am not -- I don't remember. There were many subdivision regulations and amendments thereto, and I think by the time I had left there were -- we had been able to make these regulations more flexible, but they dealt a great deal more with principles and less with certain strict sets of rules.

Q Did you discuss these changes in regulations of this type, of change, with Mr. Gerhart, the Minister of Municipal Affairs at the time?

A Yes.

Q And you did not succeed in selling him on the -- ?

A Not on everything, no.

Q There were some changes, of course, accepted?

A Yes.

Q Later on?

A Yes.

Q Now, in connection with Mr. Gerhart you have indicated that Mr. Gerhart was very much concerned about the fact that a Minister's land was involved in the townsite, and that he felt -- did he -- I'm asking you --- instead of making the statement -- did he -- did Mr. Gerhart ever indicate to you any concern about the political implications involved?

A He at one time, it seems to me, remarked that he wished that his colleagues, without naming anybody -- or some of his colleagues, would find some other field of interest than land development.

Q Would it be fair to say that Mr. Gerhart felt that he was under pressure by the fact that one of his colleagues had

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H. Lash - Maynard Ex.

Q (Cont.) land involved in the proposal?

A Yes, I think that it would be fair that this was a kind of pressure on him.

Q Would it also be fair to say that Mr. Gerhart was under pressure by the Municipal District of Strathcona?

A Yes.

Q A great deal of pressure?

A Now, this, I don't know, because -- the question of what municipalities did as municipalities, you understand, was --.

Q The question is not a fair one, and I'm sorry. I should have asked: within your knowledge was there a great deal of pressure put forth by the Municipal District of Strathcona?

A Other than that there was pressure -- I don't know how much there was.

Q Some of it was on yourself?

A From the municipal district?

Q The municipal district.

A Yes.

Q And of course, all of this pressure that was building up, involving the Minister and the municipality and so on, led eventually to Cabinet discussions. In your discussions with Mr. Gerhart would it be fair to say that the object of referring this matter to the Cabinet was to relieve the pressure on everybody concerned?

A I would say it was certainly to clarify the matter and to find out what the Government's policy was in the whole situation.

1-M-9

H. Lash - Maynard Ex.

Q And, of course, if the Cabinet decided the issue, then the pressure was taken off the backs of everybody?

A Yes.

Q Now, could I take you, Mr. Lash, to the procedure that we have been discussing at various times, and I will try to be as simple as possible and avoid repetition -- I would like to start with the 1953 -- and discuss the general procedure, first, and then relate the general procedure to what happened in Campbelltown. Now, in 1953, there was a submission made by Mr. Holloway, or an application -- a formal application submitted by Mr. Holloway, an Alberta land surveyor, on behalf of Mr. Campbell, with a plan, or a tentative plan attached.

A Yes.

Q This application came before the Edmonton District Planning Commission on September 9th, 1953, when the vote was taken on the matter.

A Yes.

Q Now, just before carrying on from this, a tentative plan of this nature is not -- is not evolved overnight. There were considerable discussions and considerable -- a number of proposals submitted and so on, which culminated in this proposal of Mr. Holloway's, in August of 1953. Is that a brief summary of the past history?

A Yes.

Q Then, the vote was taken in 1953, and that was the nine-to-six vote in favor of the proposal.

1-M-10

H. Lash - Maynard Ex.

A Yes.

Q Generalities, now: once a vote of this nature, or approval is given, to a proposal of this nature, by the Edmonton District Planning Commission, what is the next step that is taken?

A I don't remember enough of the details about this vote. They were not, with this vote, approving a tentative plan of subdivision. They were not approving the plan we had seen, signed by Mr. Holloway, as I remember. This was approval in principle that the development would take place.

Q Well, we'll just check the Minutes on it.

MR. GILL: I wonder if -- .

MR. CLEMENT: While they are entered separately they are also a part of Exhibit 168 which, in this excerpt, is nine pages long.

Q MR. MAYNARD: I am reading from the Minutes of the Edmonton District Planning Commission, September 9th, 1953, meeting No. 41. I will just read the three first paragraphs -- that's all we are concerned with at the moment: there was some discussion of -- I'm sorry -- it starts -- Moyer -- notice of motion re proposed townsite Section 27-52-23-West of the 4th. There was some discussion as to whether this subject should be an open discussion or whether closed session should be preferable, and it was finally decided that the press should be permitted to attend. The Secretary was then asked to read the notice of motion presented at the last meeting dealing with the subject. It

1-M-11

H. Lash - Maynard Ex.

Q (Cont.) was moved by Mr. Moyer and seconded by Mr. Holloway that the development proposed for Section 27-52-23-West of the 4th, and vicinity, by Mr. Campbell, be approved by the Commission. Mr. Moyer, here stated that this motion did not contain exactly what he had intended in his notice of motion, which should have included the acceptance by the Commission of the Holloway report. After some discussion on the matter, and with the concurrence of the meeting, the Chairman ruled that the motion included acceptance by the Commission of the Holloway report.

Now, this is the motion that was before the Commission, and on page 9 of this report I'll read again: A ballot was then taken resulting in nine votes being in favor of approval, and six opposed. The Chairman declared the motion to be carried.

Now, I come back and I refer to these words in the motion: that the motion includes the acceptance by the Chairman of the Holloway report. Now, the Holloway report consisted of an application for development, tentative development?

A No.

2-B-1

H. Lash - Maynard Ex.

Q I am sorry, fine. Oh, the first part of the motion:

"That the development proposed for Section 27, etc.,
be approved by the Commission."

Now, that is the development proposed for Section 27. Now,
this proposed development of Section 27 was contained in Mr.
Holloway's application?

A No.

Q I am sorry. Well, on August 31st, 1953, Exhibit number 169,
Mr. Holloway sent a letter to Hewlett which starts off as
follows:

"I am forwarding herewith a formal application on behalf
of Mr. J. H. Campbell for the Commission's approval of
his proposed townsite in Section 27, 52, 23, 4. A
tentative plan in triplicate has been sent under
separate cover ..."

MR. GILL: Now -

MR. MAYNARD: Yes?

MR. GILL: Mr. Commissioner, I know my learned friend
would not want to mislead the witness but the application,
Exhibit 159, was dated August 31st, 1951; the Notice of
Motion was proposed by Exhibit 168 on August 5th, 1953.
Even with Mr. Holloway's genius I don't think a Notice of
Motion could include a report which was not yet proposed or
received or sent.

MR. MAYNARD: I thank my good friend but I am not
referring to 1951, I am referring to a letter of August 31st
of 1953, Exhibit number 169, not 159.

2-B-2
H. Lash - Maynard Ex.

MR. GILL: What is the date of the application?
MR. MAYNARD: August 31st, 1953.
MR. GILL: Exactly.
MR. WRIGHT: Exactly.
MR. MAYNARD: Yes.
MR. GILL: And the Notice of Motion is August 5th
1953.

MR. MAYNARD: Exactly, so everything, well, the
Notice of Motion may be August 5th, 1953, the Motion itself
was submitted to Council on September 9th, 1953 after the
application of August 31st 1953, Exhibit 169, and the letter
of August 31st, 1953. If my friend wishes to make some
point about the fact that there was a Notice of Motion
submitted before this, the Notice of Motion submitted was
in general terms whereas the Commission had before them
at the meeting of September 9th a formal application based
on the proposal that had been submitted and discussed
previously which resulted in the Notice of Motion. This,
in any event, is a matter for argument, if my friend wants
to argue this a little later on I will be pleased to meet
him on it, in the meantime I think we should get some
information.

THE COMMISSIONER: Go ahead.

Q MR. MAYNARD: Mr. Lash, were you present at this
meeting of the Edmonton District Planning Commission?

A Yes, so I see by the Minutes.

Q Yes, and do you recall the discussion at this meeting?

2-B-3

H. Lash - Maynard Ex.

A No.

Q You don't recall anything about it. I notice that this application carries the notation "Received, Edmonton District Planning Commission, September 2nd, 1953". In the normal course of events in discussing the motion with the addendum that was presented at the meeting and with this application before it, is it fair to assume that this application was the basis of the discussion at this meeting of September 9th?

A When you speak of the application, you mean the subdivision and the plan that was attached thereto?

Q Yes?

A Signed by Mr. Holloway?

Q Yes?

A I don't remember, quite frankly, whether this actual plan was before the Commission or not.

Q We have the plan, you have seen the Exhibit?

A I know the plan, yes, I am familiar with the plan, but I simply do not remember whether the plan was pinned to the wall and the discussion was around that or whether it was around rather the development. I had a memorandum to the Deputy Minister shortly afterwards setting out certain considerations, and this was always a confusion, not only in respect to this proposal, but to others. You have a development, which means you are going to build physically on land, this is one thing; and the subdivision of the land that is going to contain the buildings is another; and my

2-B-4

H. Lash - Maynard Ex.

A (Cont.) impression is that the discussion involved on this occasion was: was there or was there not going to be a development, a town built in this section according to certain characteristics of population which had already been discussed and reported on by the staff. The details of the design of the town, the subdivision that was at the base of this, was not under discussion as I remember it.

THE COMMISSIONER: Mr. Wright?

MR. WRIGHT: Just this, My Lord, it seems to me that we have had a long discussion as to whether a plan was approved at the meeting of September 9th. It is very plain from the Minutes and the testimony, I believe, of Mr. Giffen at the outset that no plan was approved on September 9th, but that the Commission was doing an awful lot of work trying to fix up plans, and at a meeting of the 5th of August, which was also in the Minutes that Mr. Maynard is reading from, Mr. Dant pointed out that before they do any further work and tie up Commission staff they should have a vote in principle on whether development should take place, and that the Notice of Motion -

THE COMMISSIONER: Mr. Wright, I think what Mr. Maynard is trying to do is to find out from this witness who was there and what did happen.

MR. WRIGHT: Well, it is all in the Minutes.

THE COMMISSIONER: We have to give him an opportunity of saying what happened, and that is all I am concerned with now, what he knows as to what happened. You gentlemen can argue

2-B-5

H. Lash - Maynard Ex.

THE COMMISSIONER: (Cont.) the significance of it at some other time but I am concerned with what he knows about what happened.

Q MR. MAYNARD: That is all I am trying to get at, I am not trying to badger the witness either, Mr. Commissioner.

I take it, Mr. Lash, that your recollection is that the discussion that took place was a discussion on a principle involved as to whether a townsite should be permitted in this particular area?

A Yes.

Q And that the Holloway submission and the application and the plans attached did not necessarily form part of the discussion?

A That is my recollection.

Q And that this application by Mr. Holloway was not approved by the resolution that was passed by the Council as such?

A That is correct.

Q Now, taking it from there, is there a great deal of difference between the approval of a tentative plan in principle and the approval of the motion that was accepted by the Edmonton District Planning Commission on September 9th?

A There is this difference, that approval of the development in principle is simply that, it is the base from which you go on; when you approve a tentative plan, this gives the owner the right to submit final plans for subdivision and to have them registered within the period of time following

2-B-6

H. Lash - Maynard Ex.

A (Cont.) the approval.

Q So that following the motion then of September 9th where approval was given in principle to a development -

A Yes.

Q - it then became the responsibility of the developers to submit a tentative plan?

A That is correct.

Q And not a subdivision plan at this time?

A Not a subdivision plan.

Q And I think you have indicated that there had been various plans?

A Various plans, yes.

Q Now -

THE COMMISSIONER: Could I interject here, are you using "tentative plan" in the sense of an "outline plan"?

A Well, the only two terms that were recognized as set out in this particular memo at the time were a tentative plan of subdivision and a final plan of subdivision.

Q MR. MAYNARD: A tentative plan is in effect, was considered in those days in effect an outline plan?

A Well, an outline plan was a term that was used, I don't know that it was synonymous with tentative plan because a tentative plan was not complete, it indicated certain things as required by the subdivision regulations, but you could have a small scale outline plan of several sections of land showing how you proposed generally to develop it.

Q Was a tentative plan something more concrete?

2-B-7

H. Lash - Maynard Ex.

A Yes.

Q And more advanced?

A More detail.

Q Than an outline plan?

A Yes.

Q Is that it?

THE COMMISSIONER: Yes.

Q MR. MAYNARD: Now, once this plan had been approved in principle was it necessary for the Provincial Planning Advisory Board to also give its approval in principle?

A No. Now, would you repeat the question?

Q When the Municipal District, when the Edmonton District Planning Commission approved in principle on September 9th, 1959, the proposal for the development of Campbelltown townsite, was it necessary at that point to obtain approval of the Provincial Planning Advisory Board?

A No.

Q Had the municipality, I am sorry, the Commission approved the tentative proposal submitted by Mr. Holloway with his letter of August 31st, would that approval have to be submitted to the Provincial Planning Advisory Board?

A Well, subject to confirmation of dates, I think strictly speaking at that time that the Edmonton District Commission was not yet an approving authority under the subdivision regulations, and that the real power to approve the tentative plan was still with the Provincial Planning Advisory Board, but that shortly afterwards, or at that time, the Edmonton

2-B-8

H. Lash - Maynard Ex.

A (Cont.) District became an approving authority and then they had full power to approve a tentative plan, providing the plan was in strict conformity with the regulations.

Q Now, I will question the date in a moment. Later on when the Edmonton District Planning Commission did obtain approval, authority to approve -

A Yes.

Q - there was no necessity to submit those plans to the Provincial Planning Advisory Board?

A Not unless they violated.

Q If they violated the regulations?

A Not unless they violated the regulations.

Q Yes. Now, before that they still had to go to the Provincial Planning Advisory Board?

A Yes.

Q I don't like to tax your memory, we might be able to get it elsewhere; would you know the date that that took place?

A Well, it would have been set out in an Order-In-Council somewhere, it is part of the subdivision regulations or an amendment to the subdivision regulations, it must be on the record somewhere.

Q Yes, it was about the fall of 1953?

A I think it is in one of the Exhibits that was submitted by -

Q It is not pertinent at this time, Mr. Chairman.

A It was at about this time.

Q Now, when you refer to the lapse of time of eighteen months and twelve months, as you did yesterday, you recall a

2-B-9

H. Lash - Maynard Ex.

Q (Cont.) discussion about the necessity to do certain things within twelve months and eighteen months?

A Yes.

Q Let us deal, first of all, with the approval of the tentative plan; once a tentative plan is approved am I right in assuming that the developer has eighteen months thereafter to submit concrete proposals?

A Yes, submit a final plan of subdivision which is going to be registered at the Land Titles Office.

Q Oh. A final plan of subdivision of the entire area?

A No, no, he is entirely at liberty to -

Q Piecemeal?

A Piecemeal.

Q Fine, and if he fails to submit a subdivision plan for registration within the eighteen months he can resubmit either the same plan for approval or another -

A Yes.

Q - tentative overall plan?

A Yes.

Q And that gives him another eighteen months?

A Yes.

Q But after he has obtained approval for the registration of an actual subdivision plan -

A Yes.

Q - that must be done within twelve months? I am referring to this period of time.

A No, I don't think, I think you are making, I don't know

2-B-10

H. Lash - Maynard Ex.

A (Cont.) what the distinction is between the twelve months and the eighteen months, but I think it is twelve months he has an absolute right to enter a plan to be registered, within that period; that there can be an extension by the approving authority or the Director for a further six months as well.

Q Oh, then can I clarify it this way: once a tentative plan has been approved he has twelve months within which to file a subdivision plan?

A Yes.

Q And if he fails he has six months extension thereafter?

A If he gets the approval for that, yes.

Q Yes, but if he fails to file a subdivision plan within twelve months he may resubmit his tentative plan or another outline general plan?

A Yes.

Q And that would give him another twelve month period?

A If it was approved again.

Q Oh, well, naturally.

A Yes.

Q Now, I would like to come to the specific instance of Campbelltown. We have already dealt with the Minutes of September 9th, 1953, and following this there were various proposals that were submitted, discussed, analyzed, etc., which resulted in the submission of a tentative plan or outline plan in September of 1954?

A Yes.

2-B-11

H. Lash - Maynard Ex.

Q I think, Mr. Lash, you had some discussion yesterday with Mr. Dant concerning certain documents that we had just discovered?

A Yes.

Q And they were mentioned to you?

A Yes.

Q That these documents came to my knowledge, Mr. Commissioner, the night before last. I did some tracing down yesterday afternoon, some running down, in order to obtain what other information I could in connection with these documents, and I contacted Mr. Dant so that Mr. Lash would be informed, so that he would not be caught by surprise this morning in the light of the documents that we were able to obtain just yesterday afternoon.

I think Mr. Lash mentioned to you an application that had been made by Mr. Hill, an Alberta Land Surveyor, accompanied by plans for the development of all of Section 27, Township 52, Range 23, West of the 4th Meridian. I show you an application signed by Mr. Hill and a signature of approval at the bottom; this is your signature?

A Yes.

Q The application is dated September 27th, 1954?

A Yes.

Q And approval was given on November 9th 1954?

A '54, yes.

Q Was this proposal discussed with the Provincial Planning Advisory Board?

2-B-12
H. Lash - Maynard Ex.

A Yes.

Q And your signature represents the approval of the Board on this?

A As far as I remember, yes.

Q Yes, I will file this as an Exhibit.

THE COMMISSIONER: It will be Exhibit 262.

APPLICATION BY HILL RE SECTION 27,
SEPTEMBER 27th, 1954, MARKED
EXHIBIT 262.

Q MR. MAYNARD: I now show you a letter of November 9th 1954, addressed to Mr. Campbell, is this your signature on this letter?

A Yes.

Q I file this as an Exhibit.

THE COMMISSIONER: Exhibit 263.

MR. MAYNARD: A letter of November 9th, 1954, to Mr. Campbell from Mr. Lash, Director of Town and Rural Planning. The letter is short so I shall read it.

THE COMMISSIONER: Yes.

MR. MAYNARD:

"I am enclosing herewith one copy of the approved application form for the proposed subdivision of Section 27, 52, 23, West of the 4th, together with a copy of the tentative plan bearing the Board's approval. A copy of this letter has been sent to Mr. J. W. Hill, Alberta Land Surveyor, who submitted the application forms on your behalf."

THE COMMISSIONER: Exhibit 263.

2-B-13
H. Lash - Maynard Ex.

LETTER FROM LASH TO CAMPBELL RE
HILL APPLICATION, NOVEMBER 9th,
1954, MARKED EXHIBIT 263.

Q MR. MAYNARD: Now, Mr. Lash, do you recall what plan was approved on this occasion?

A No.

Q Well, from the date of the approval of this plan the developer would then have twelve months within which to start filing his subdivision plans?

A Yes.

Q I think there was some confusion yesterday in your evidence concerning the registration of the plan in Block 6, we will try and clear it up.

I think Mr. Lash also mentioned to you yesterday that we had discovered an application for the registration of a parcel of the South West Quarter of Section 27, 52, 23, West of the 4th, dated June 14th, 1955. This is a photostat copy of the application that I obtained yesterday afternoon from Mr. Usher's office. On the back of the application is the signature "Mr. Usher", and there is a signature of approval?

A Yes.

Q And this is your signature?

A Yes.

Q And the plan attached to this application, is this the one that was approved on this occasion?

A Yes.

Q Could I have this marked?

2-B-14
H. Lash - Maynard Ex.

THE COMMISSIONER: Exhibit 264.

MR. MAYNARD: Application dated June 14th, 1955,
for approval of part of the South West Quarter of Section
27, Township 52, Range 23, West of the 4th; and approved on
the 15th of June 1955 by Mr. Lash, Director of Town and
Rural Planning; with a plan attached.

APPLICATION FOR REGISTRATION OF
PART OF SECTION 27, DATED JUNE
14th, 1955, AND PLAN ATTACHED,
MARKED EXHIBIT 264.

Q MR. MAYNARD: Now, Mr. Lash, I'm interested in the
date of approval. The date of approval, the date of
submission of this plan in this application is June 14th
and it was approved the next day, June 15th; normally things
are not that speedy?

A Now, where there was no problem things were often this
speedy.

Q Well, it often happens, I am assuming now, you can correct
me, I take it that it often happens that things of this
nature or discussed with the Commission or with yourself, or
with the Board members beforehand in order to ascertain what
would be acceptable and what would not be acceptable, and so
on?

A Yes.

Q Once agreement is reached the formal application is made and
the approval is a formality?

A Yes.

Q That often happens, I take it?

THE COMMISSION :

Exhibit 204.

MR. MAYNARD:

Application dated June 14th, 1925.

for approval of part of the South West Quarter of Section 27, Township 52, Range 23, West of the 4th; and approved on the 15th of June 1925 by Mr. Lash, Director of Lown and Rural Planning; with a plan attached.

APPLICATION FOR REGISTRATION OF
PART OF SECTION 27, DATED JUNE
14th, 1925, AND PLAN ATTACHED,
MARKED EXHIBIT 204.

Q MR. MAYNARD: Now, Mr. Lash, I'm interested in the

date of approval. The date of approval, the date of submission of this plan in this application is June 14th and it was approved the next day, June 15th; normally things are not that speedy?

A Now, where there was no problem things were often this speedy.

Q Well, it often happens, I am assuming now, you can correct me, I take it that it often happens that things of this nature or discussed with the Commission or with yourself, or with the Board members beforehand in order to ascertain what would be acceptable and what would not be acceptable, and so

2-B-15

H. Lash - Maynard Ex.

A Yes.

Q Would you say that that is what has happened in this particular case?

A I am not certain. In fact, I am just wondering in the light of the dates, perhaps whether it was necessary to have a tentative plan approved at all at this point.

Q Well, we had already had a tentative plan approved in September, November 9th, 1954?

A Yes.

Q And I come to that Exhibit 261.

A Yes.

Q 261, the Minutes. I would like to show you Exhibit 261, excerpt from the Minutes of the Provincial Planning Advisory Board dated June 14th, 1955; can you take the time to read the part relating to it?

2-P-1

H. Lash - Maynard Ex.

A Would you like me to read it out loud?

Q No, just familiarize yourself with it?

A Yes.

Q Now, keeping those Minutes in mind, keeping in mind the fact that an outline plan had already been approved by yourself on November 9th, 1954?

A Yes.

Q And referring to the approval you had given on June 15th, the day following these Minutes; could you tell us whether the approval of this proposal, of this particular plan, related to the plan to which you had given approval on November 9th, 1954 or another plan that had been submitted to you around or about this time?

A The approval of this particular one, the small number -- six?

Q Yes, six?

A Related to the earlier one about a year ago.

Q Of November '54?

A Yes.

Q Now, the Minutes indicate you had some discussion with Mr. Stanley, the consulting engineer and Mr. Wiggins, an Edmonton manager for the development company?

A Yes.

Q And it refers to a meeting to be held on June 20th with Mr. O'Donnell?

A Yes.

2-P-2

H. Lash - Maynard Ex.

Q Now, Mr. O'Donnell according to these Minutes is now in the picture, can you tell us whether the plan you had approved in November '59 was the O'Donnell plan -- I am sorry '54, was the O'Donnell plan or some other plan?

A No.

Q It is difficult.

MR. CLEMENT: Well, there is an Exhibit which might help Mr. Lash's memory.

MR. MAYNARD: Exhibit 175?

MR. CLEMENT: Exhibit 173.

MR. MAYNARD: 173.

MR. CLEMENT: Put in by Mr. Dant as a chronology of events.

MR. MAYNARD: Oh well, I am afraid I am going to have to challenge this now. It has been challenged already this morning. What I am referring to and what we may have to correct later on is the chronology of the registration, not the dates of registration but the dates of approval of the various subdivision plans. This is fine, Exhibit 173.

MR. CLEMENT: This is merely Mr. Commissioner because the plan that is now been spoken of has been given a name by a previous witness and perhaps will minimize the confusion.

Q MR. MAYNARD: Does it help you now?

A No.

Q It doesn't help?

2-P-3

H. Lash - Maynard Ex.

A No.

Q Well then, let me see if I can help you further. I think Mr. Lash also mentioned to you that we found yesterday afternoon an application dated June 22nd, 1955 for the development of all of Section 27, Township 52, Range 23, west of the 4th meridian --

THE COMMISSIONER: Mr. Maynard, I presume you mean Mr. Dant mentioned to him, you said Mr. Lash mentioned to him.

MR. MAYNARD: Oh, I am sorry, I meant Mr. Lash.

THE COMMISSIONER: I assume you meant Mr. Dant.

Q MR. MAYNARD: Yes. This application was signed by Mr. Usher?

A Yes.

Q And is this your signature at the bottom?

A Yes.

Q Could you read out the conditions on which this was approved? I can't --

A "Lot corners at intersections to be rounded or cut off."

Q Thank you, I wasn't quite able to make out the word 'lot'.
I file this as an Exhibit.

THE COMMISSIONER: Exhibit 265.

APPLICATION DATED JUNE 22nd 1955
SIGNED BY MR. USHER ENTERED AS
EXHIBIT 265.

MR. GILL: The date of it Mr. Maynard?

MR. MAYNARD: The application was dated June 22nd,

2-P-4

H. Lash - Maynard Ex.

MR. MAYNARD: (cont.) 1955, approved on June 22nd, 1955 and approval signed by Mr. Lash.

A May I say something? It is an interesting point and I don't know whether it is of any importance but I notice apparently I filled in the date of application on that. The date of application of June 22nd is in my handwriting.

Q MR. MAYNARD: I notice that it had been omitted by Mr. Usher, it could have been submitted some time before this?

A Yes.

Q So the date of June 22nd '55 as being the date of the application is a debatable point?

A Yes.

Q Now, I am also advised Mr. Lash that attached to this application was this plan. Shall we take a look at it and see if you can recall it?

A Well, it is familiar, yes.

Q The plan is familiar?

A Yes.

Q Can you say whether this is the plan that was attached or a copy of the plan that was attached to this application?

A I have no reason to suppose it was not. I would say that unless there is some evidence to the contrary I would be perfectly happy to say that it is.

Q Could we have this marked as part of Exhibit 265?

THE COMMISSIONER: Yes, what would you call that, an

2-P-5

H. Lash - Maynard Ex.

THE COMMISSIONER: (cont.) outline or a tentative plan?

A This is a tentative plan.

MR. MAYNARD: 265A?

THE COMMISSIONER: 265A.

TENTATIVE PLAN ENTERED AS EXHIBIT
265A.

Q MR. MAYNARD: Now, your signature on this approval, does it represent the approval of the Provincial Planning Advisory Board?

A Yes.

Q And you were the director?

A Yes.

Q I come back now to the registration of the first plan, number six?

A Yes.

Q Having seen -- oh, excuse me, before I come back to this, I will indicate what my instructions or my information is, you can verify it if you can and if not you might say so. My information is Mr. Dant that at the time that application for subdivision of Block 6 was submitted to you you advised Mr. Usher that it would be necessary for him to obtain the approval of an overall plan and that consequently the plan just submitted to you that was approved or, the application of June 22nd, 1955, was in compliance with your request that there should be now submitted formally a plan to cover the approval of the subdivision plan for Block 6. Does that help you any? You still can't recall?

2-P-6

H. Lash - Maynard Ex.

A No.

Q So, as far as you know, the approval then of subdivision Lot 6 was still in relation to the Coutts Plan?

A Yes.

MR. GILL: Counts.

MR. MAYNARD: Well --

A One of the plans.

Q MR. MAYNARD: One or the other?

A Yes.

Q There has been some discussion going on as to whether the proper name is Counts or Coutts C-o-u-t-t-s, can you help us?

A No I can't.

Q You don't know?

A The main thing I recall about one plan is that a man from the Mid Western United States submitted it.

Q Well, we have called it the Counts Plan up to now and I think we should carry on for identification purposes.

THE COMMISSIONER: I was under the impression from the evidence that the Counts Plan was on the grid system.

MR. MAYNARD: Yes, I was referring to the name, whether the name was actually Counts or Coutts.

THE COMMISSIONER: Oh yes.

MR. MAYNARD: In my discussion there has been some suggestion that the name was Coutts and not Counts but we have called the gentleman Counts and, I think for purposes

2-P-7

H. Lash - Maynard Ex.

MR. MAYNARD: (cont.) of identification we will carry on the same way. Thanks Mr. Gill.

Q MR. MAYNARD: Now, I referred you to a further subdivision plan, Plan 723KS which was registered in the Land Titles Office on August 23rd, 1955.

MR. CLEMENT: It is an Exhibit.

MR. GILL: It is Exhibit 131.

Q MR. MAYNARD: Exhibit 131. It is filed already as Exhibit 131. Do you recognize this subdivision?

A Yes.

Q And on this plan I note that there is also outlined what is in effect Block 6?

A Yes but that is normal. The line of the plan which is now being registered excludes it and you will see the notation that this is registered Plan 632KS, for Lots 1 to 10.

Q Yes, my only concern was to relate the two of them together?

A Oh yes.

Q And this was registered in August, do you know when this plan was approved?

A August 5th.

Q August 5th, 1955?

A Yes.

Q Is this your signature?

A Yes.

Q On behalf of the Provincial Planning Advisory Board?

A Yes.

2-P-8

H. Lash - Maynard Ex.

Q As far as you recollect, this plan, this subdivision plan was also filed in relation to a tentative plan that had been approved by you in November, on November 9th, 1954?

A Well, it was --

Q As far as you can recall? Well, would it be fair to say it was either in relation to the plan of November 9th, 1954 or some subsequent tentative plan?

A Yes.

Q So that coming back now to the question of dates and the attempt to show that there had been a violation of the regulations in not complying with the dates required under the regulations; a tentative plan was approved on November 9th, 1954?

A M-hm.

Q A subdivision plan was approved on June 15th, 1955, that is well within the twelve months?

A M-hm.

Q Then a second subdivision plan, the Exhibit just referred to, was registered, was approved on August 5th, 1955?

A Yes.

Q Also well within the twelve months?

A Yes.

Q And registered shortly thereafter. Is that correct?

A It is correct but do you suggest that I had said --

Q No, no, not at all Mr. Lash, not at all. No, you had not suggested but my friends have been making quite a point about

2-P-9

H. Lash - Maynard Ex.

Q (cont.) the fact that the regulations had not been lived up to, that there had never been any tentative plans approved and I thought we should clear the record. Of course, the fact that two plans had already been registered as early as August, 1955, who was Minister of Municipal Affairs at that time?

A Mr. Hinman and it was changed to Mr. Hooke in July or August.

Q After this. It was sometime in August. Well, the fact that these two plans were registered is certainly an indication that the overall plan of Campbelltown townsite had been approved and was underway?

A As I said, this was settled before Mr. Hooke became Minister.

Q Yes, and that anything that transpired after that was simply a question of routine matters?

A H-mm?

Q Well, there were no principles involved any more at this stage?

A No, this would be correct.

Q Now, let us go back to the period of 19 --, of September, 1954 to November 1954, you read from some notes from the file?

A Yes.

Q What had transpired on this occasion. This was in the examination by Mr. Gill. Oh, while we are on this subject and in view of the fact Mr. Lash that approval had already been given to a tentative plan and subdivisions were already

2-P-10

H. Lash - Maynard Ex.

Q (cont.) registered in mid 1955, why did it become necessary for Mr. Hooke to sign a plan in September of 1955?

A Well, there were two things going on at once in that the -- I think the Minute, Exhibit 261 makes it clear because the tentative plan which had been approved was the self-contained unit of Section 27 and the developers wanted to enlarge the concept of the townsite and get it established that the size of the eventual development would cover more than Section 27, a much larger area and this is the matter about which the Board said, in the Minute, if the development company wishes to obtain approval of the overall plan, the larger one and to have this subdivision considered as part of it, the subdivision, the little number six I believe -- no, I am sorry -- yes. Then it will be necessary to wait until July when it becomes possible to make a further study and report to the Executive Council.

In the meantime a small subdivision of a few lots on the plan to allow the building of show houses was approved and, that is number six. So that there was except it established for Section 27 as a self-contained townsite and the developers were free to proceed with this but what Mr. Hooke signed in August is a plan which covers more land than just Section 27.

Q Thank you, I think the explanation is quite clear and fits in the picture, so, there were two references to the Cabinet then, one in September, in the fall of 1955 when Mr.

2-P-11

H. Lash - Maynard Ex.

Q (cont.) Hooke became Minister and that is the one he signed on behalf of the Cabinet and the other was in the fall of 1954?

A M-hm.

Q Now, have you been able to check out as yet the written pencilled note, in your handwriting, referring to January, 1957?

MR. CLEMENT: That is on Exhibit 175.

A Yes.

MR. CLEMENT: I think Mr. Wright has it, plan, Exhibit 175.

A Yes, it is right there.

Q MR. MAYNARD: And while you are looking at this Mr. Lash, the reference in the Minutes of January 28th, 1957, of the Provincial Planning Appeal Board, which is filed as Exhibit 176, contains this statement, "Mr. Holloway noted Mr. Hooke's signature on the overall plan represented Executive Council's approval" but, this is '57?

A Yes.

Q Your note is '57?

A Yes.

Q And the plan was approved by Mr. Hooke in September '53?

MR. CLEMENT: '55.

Q MR. MAYNARD: '55?

A Yes, '55.

Q MR. MAYNARD: Now, could your notation on this

2-P-12

H. Lash - Maynard Ex.

Q (cont.) plan be a reference to the fact that this entry was in the Minutes of January 28th, '57?

A Yes.

Q And no greater significance than that?

A Well, I think there is no greater significance than it is necessary to explain the signature of the Minister on the plan.

Q It does sound like a logical explanation?

A Yes.

Q Can you offer a better one?

A No.

Q Thank you. Now, I refer to the statements you made yesterday in reply to Mr. Gill and this is for the purpose of keeping the record straight, again, and I think you should be given the opportunity of correcting these statements in the light of information produced. You were asked by Mr. Gill, the following questions and you give the following answers.

" Q Is it a fair summary that under the Minister-ship of Mr. Gerhart there was no plan of Campbelltown signed?

A That is correct."

Now, in the light of the Exhibit filed this morning of November 9th, 1954, will you correct the statement?

A That is correct, it is -- hold it now.

Q Mr. Lash, let me say, yesterday you were speaking from

2-P-13

H. Lash - Maynard Ex.

Q (cont.) memory?

A Yes.

Q Yesterday you had no documents?

A Well, I am still trying to think what we have established.
What have we established for late '54?

Q Oh, I am sorry, we have established that in September there was an application made by Mr. Hill, with some plans attached?

A Yes.

Q And Mr. Hill's application was approved, the plans were signed and a copy of the plans were sent to Mr. Campbell?

A M-hm. Correct, yes, my statement yesterday was incorrect.

Q The next question;

" And under the Ministership of Mr. Hinman as Minister of Municipal Affairs there was no plan of Campbelltown signed?

A I believe that is correct."

Now, we have established today that there was an application on June 14th, 1955, approved on June 15th, 1955 for the first subdivision plan of Campbelltown proper. So, the records should be corrected to this extent?

A That's correct.

Q And that was of course during the time that Mr. Hinman was Minister?

A Yes.

2-M-1

H. Lash - Maynard Ex.

Q And the next question:

"Q And at no time did the Director of Town and Rural Planning sign for himself or on behalf of the Provincial Planning Advisory Board a plan of Campbelltown?

A I believe that is correct."

Should your statement now be corrected?

A It should be corrected.

Q And so the statement you gave yesterday is -- no longer holds?

A That's correct.

Q And then, the next question:

"Q The first signing came on September 23rd, 1955, when Mr. A. J. Hooke was Minister of Municipal Affairs?

A I believe that is correct."

Of course this statement also has to -- .

A This was referring to this larger overall plan.

Q Oh, that's what you were referring to?

A Yes.

Q But I think the question that my friend was asking was in relation to the entire period of time, and to the extent that these other plans had already been signed and approved by yourself, then, this answer is not correct?

A No.

Q Was a satellite town in the area between Edmonton and Fort Saskatchewan, actively -- actively considered by either

2-M-2

H. Lash - Maynard Ex.

Q (Cont.) the municipality or the Edmonton District Planning Commission before Mr. Campbell appeared on the scene?

A I don't remember.

Q You have no knowledge of it?

A The only thing I remember was that Fort Saskatchewan itself was considered -- .

Q Oh, the Town of Fort Saskatchewan, but nothing in between?

A There was this --- at some point there was this proposition about a place to be called Hendayville, but I don't know -- remember where this came in, in period of time. I think this came in quite a long time after the Campbelltown proposal had been made.

Q Do you know of any plans prepared by -- or any proposal -- not plans --- proposal prepared by the Municipal District of Strathcona for the establishment of a satellite town, before Mr. Campbell appeared on the scene?

A I don't remember any.

Q Exhibit 159. Exhibit 159, Mr. Lash, is the original letter of November 9th, 1951, by Mr. Campbell to the Council of the Municipal District of Strathcona, which starts off:

"On behalf of myself and associates I hereby request your approval" -- etc.

Have you had an opportunity of reading this letter?

A I don't remember.

Q You were asked yesterday about Mr. Hooke's associates.

I call your attention to the letter -- in the letter to the

2-M-3

H. Lash - Maynard Ex.

Q (Cont.) reference on page 2 -- principles in financing -- in reference to a potential cost of some twenty million dollars -- .

A Yes.

Q -- and a reference to La Buscadera Exploration Company of Pasadena, California.

A M-hm.

Q You say you have never seen this letter before?

A No, I said I don't remember.

Q Oh, I'm sorry, I'm sorry. Can you tell us if you remember seeing it now?

A No, I really don't.

Q That's fine; so you do not remember any discussion relating to the La Buscadera Company?

A This I certainly don't remember.

Q And you do not know, then, if this was one of the associates that Mr. Campbell was referring to? You didn't know?

A No.

Q Fine. I think we should clear the record again, Mr. Lash; when you were being questioned by Mr. Clement there was a reference made at page 1491 and 1492, and I shall read the statements:

"Q I just want to make sure that I am dealing with the same area, Mr. Lash. I think there may be a -- I was a little off the track. These two plans, 632 and 732 deal with the portion, the lower portion which is -- some different name---- and they are

2-M-4

H. Lash - Maynard Ex.

Q (Cont.) " dated in 1955 in June, prior to this. There is no particular relationship between the two?",

and the answer you gave was:

"A No, no, no."

Now, the two plans 732 and 632KS were the ones that were mentioned here this morning, and of course they do relate to Campbelltown proper, and not to Campbelltown Heights?

A Mr. Clement was pointing to them on the map, and I couldn't check the numbers.

MR. CLEMENT: I was responsible for that error, sir. I thought there was -- .

THE COMMISSIONER: Campbelltown, do I understand, is just the part north of that Wye Road?

A Yes.

THE COMMISSIONER: Yes.

Q MR. MAYNARD: And the two particular plans referred to deal with Campbelltown proper, and not with Campbelltown Heights?

A Yes.

Q I just didn't want the record to show this statement.

THE COMMISSIONER: And is Sherwood Park also confined to that area north of the Wye Road?

A I couldn't tell you, sir -- .

THE COMMISSIONER: That name has developed since you were here.

A --- this is a name that has come up since I left.

2-M-5

H. Lash - Maynard Ex.

Q MR. MAYNARD: Exhibit 161, Mr. Lash, there was reference made to this yesterday at page 1498 of the transcript when you were being questioned by Mr. Gill. I would like to read the part that I refer to:

"Q Now, this is going back a good while, but in 1951 -- it would be Exhibit 161 -- the Plotkin report was entered before the Edmonton District Planning Commission, and the Minute of the Edmonton District Planning Commission, which is in these proceedings under Exhibit 161 -- one paragraph reads: Mr. Lash stated that he wished to make it clear that the Provincial Planning Advisory Board would not approve any project of the nature set forth in Mr. Campbell's submission without the favorable recommendation of the Commission. This was in November of 1951.

A Yes.

Q Do you recall taking that position?

A Yes, this was a position -- it is an expression of the Board's policy at the time with respect to any District Commission area.

Q So, in November of 1951, you, as the Director of Town and Rural Planning for the Province of Alberta -- .

A Yes.

Q -- felt that the Provincial Planning Advisory Board, of which you were then Chairman -- .

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H. Lash - Maynard Ex.

Q (Cont.) "A No, Executive Member.

Q -- Executive Member, would not approve any project such as Campbelltown, without the favorable recommendation of the Commission?

A Correct.

Q And did you ever vary in that view up to and including September of 1955?",

and you answered:

"A We varied -- I don't think that I varied in the view in this sense: that the view expressed was the policy regarding district commissions and their area of jurisdiction, whether it be Edmonton or any other part of the Province. It was perhaps -- the view which you stated in the Minutes --- I'm not sure whether I put it that way, but of course, it did not allow for cases of arguments or appeals being made to the Board, if somebody didn't agree. Generally speaking, the Board stuck to this."

Now, you remember these questions yesterday. Now, Mr. Lash, in the light of the exhibits introduced this morning, and your approval to the overall plan of 1954, and the two subsequent subdivisions that I referred to -- none of these, of course, were approved by the Edmonton District Planning Commission.

A No.

Q And, of course, the Edmonton District Planning Commission was not seized with this problem at the time.

2-M-7

H. Lash - Maynard Ex.

A No.

Q But at the time you made your statement --- the Plotkin report -- the Edmonton District Planning Commission was in the picture?

A Yes.

Q And it could well be that if the Edmonton District Planning Commission had continued to be seized, your statement would still have held, that you would not have considered anything without it being approved by the Edmonton District Planning Commission in the first instance. Is that correct?

A Certainly as to procedure I would have not considered it until they had considered it.

Q And when you made the statement that was referred to by my friend in the Plotkin report, you did not visualize or anticipate the withdrawal of Strathcona from the Edmonton District Planning Commission?

A No.

Q So that the circumstances that existed at the time you made the statement, disappeared?

A Yes, quite.

Q And there was nothing wrong -- .

A No.

Q -- in your approving of anything thereafter?

A No.

Q Without the approval of the Edmonton District Planning Commission?

A No.

2-M-8

H. Lash - Maynard Ex.

Q Now, there was considerable discussion -- not discussion -- you read your notes yesterday in connection with the -- Mr. Gerhart asking you to keep a diary of what had transpired, and you referred to a memorandum that you submitted to Mr. Gerhart on October 19th, 1954. I think the evidence has been that at this time, in 1954, the Cabinet was certainly going to be seized with this problem, that you were aware of that at the time; is that correct?

A Yes.

Q And the preparation of all these memoranda to Mr. Gerhart was for the purpose of discussions in the Cabinet?

A Well, I can't say that this was specifically for that, but I thought at the time it was for the Minister, and it may be for the Cabinet.

Q Yes. Were you ever invited to come before the Cabinet?

A I don't remember; I don't think so.

Q Mr. Gerhart held pretty well the same views that you did in connection with the Campbelltown development?

A No, I don't think he did, quite.

Q Not quite?

A No.

Q Oh. I gathered yesterday that possibly the two of you were of one mind.

A No.

Q In what respect was there difference of opinion?

A Well, I would say that Mr. Gerhart was less -- less convinced than I was for other ---- of the -- of the desirability of

2-M-9

H. Lash - Maynard Ex.

A (Cont.) not having a development there.

Q He was less opposed to the proposal?

A Less opposed, yes, and his reasons for the opposition which he did have were not in all respects the same as mine.

Q Your reasons for opposing were at a strictly planning level?

A Yes.

Q Mr. Gerhart's reasons for opposing were more of a political nature because a Minister had some land involved?

A No, as I say --- this was part of his concern, I'm sure, but -- as Minister of Municipal Affairs -- and he had been Minister for some time, and he had advocated certain policies, and he was more concerned with how this was affecting and reacting on his personal support of the development of district planning commissions, and the autonomy of municipalities, and the way he was trying to build up the efficiency of the municipal government, and what to do about this tax base problem, and so on.

Q Was he also concerned about his own principles about freedom of the individual?

A Yes, and this as well.

Q And the complications of the existing -- .

A I believe I said yesterday that he never seemed to clearly situate himself between the need for planning, with some consequences on the freedom of the individual, and his belief at the same time in freedom of the individual.

Q Now, there was some discussion mentioned yesterday and again

2-M-10

H. Lash - Maynard Ex.

Q (Cont.) today about this being an extraordinary state --- an extraordinary set of procedures which were followed referring the matter to the Cabinet and having the Minister sign the plans. Have you any knowledge, Mr. Lash, of any other subdivision development in Alberta where a Minister held land that created the problems that were created here?

A No, I don't remember any.

Q So that the fact -- the thing that was unusual about this was the fact that a Minister held some land in the proposed development?

A This was part -- it wasn't only this.

Q Well, this was part of it, and the reference to the Cabinet undoubtedly was because of the fact that a Minister had --- I'm sorry -- you wouldn't know.

MR. CLEMENT: Oh, no, no, I was just going to get the witness a glass of water.

(General laughter.)

A Thank you for getting up, Mr. Clement.

Q MR. MAYNARD: Then I will repeat the question -- you may know: was the reference to the Cabinet by Mr. Gerhart because of the fact in part, because of the fact that a Minister did have some land involved?

A I don't know.

Q You don't know. So Mr. Gerhart was sufficiently concerned about the whole situation to refer the matter to the Cabinet?

A Yes.

2-M-11

H. Lash - Maynard Ex.

Q Now, reference has been made to the fact that Cabinet approval was most unusual, a most unusual method for approving a townsite, and you were asked this morning whether there was any law or any regulations that required Cabinet approval. I'm not going to ask you about the law. The question that was asked was: is there any provision in the law to enable the Cabinet to overrule a decision of the Provincial Planning Advisory Board? Now, the question I'm going to ask you is of fact and not of law: did the Cabinet in fact ever overrule a decision of the Provincial Planning Advisory Board?

A With this -- with reference to this?

Q Yes.

A I can't say positively one way or the other. I don't think there was in fact a decision of the Board to overrule. I think it was taken to the Cabinet before there was a decision of the Board.

Q Exactly, and that is the evidence you gave yesterday, that the Board had never passed on this one way or the other.

A Yes.

Q And that is still your recollection of the situation?

A Yes.

Q So that any decision that was made by the Cabinet was by way of recommendation to the Board in any event that this should be done?

A Yes.

Q Or should not be done?

2-M-12

H. Lash - Maynard Ex.

A Yes.

Q Is that a fair picture of the situation?

A That's one way of looking at it.

Q Can you suggest another way?

A Well, I think it could also be thought not as a recommendation to the Board, but as a directive. I really don't feel that the Board had any liberty to decide whether it agreed or not with the Executive Council.

Q The Board having abdicated its authority to make the decision, was prepared to accept the decision of the Cabinet?

A Well, the Minister was Chairman of the Board.

Q Yes, and the Minister went along with the Board in refusing to take a decision or stand one way or the other, and that's why it went to the Cabinet?

A I don't know whether the Board refused to take a position, but when the matter comes -- first we mix the Minister as Chairman of the Board and the Minister as Minister, because when he as one person feels that this is a matter requiring cabinet attention, he is sort of automatically acting in both directions, and, of course, as the Chairman of the Board doesn't want to consider the matter --- this is his --.

Q That is his privilege. Well, I won't labor the point. There was no decision made by the Board in any event to be overruled by the Cabinet at any time?

A Not to my recollection.

Q I come now to the statement you made regarding myself and Mr.

2-M-13

H. Lash - Maynard Ex.

Q (Cont.) Hooke.

A Yes.

Q In relation to the Municipal District of Strathcona.

A Yes.

Q I was interested in the statement you made yesterday that I had had some discussions with the Municipal District -- that myself and Mr. Hooke had had some discussions with the Councillors of the Municipal District of Strathcona.

A Yes.

Q It was news to me. Can you tell me what councillors I am supposed to have met on this occasion?

A No, this is secondhand information -- I made that clear.

Q Oh, I didn't think -- I was going to ask that, because I didn't think it was made clear yesterday that it was secondhand information.

A I was questioned as to where I got the information, and I said that I thought it might have come from Mr. Judge or Mr. Gertler.

Q Yes, you made that statement in relation -- subsequently, yes; and did Mr. Judge and Mr. Gertler ever tell you what members of the Council came to see me, to see Mr. Hooke and myself?

A I don't remember.

Q You don't recall.

A No.

Q He could have told you, you just don't know.

MR. WRIGHT:

With respect, the evidence of Mr. Lash
SUPREME COURT REPORTERS
EDMONTON, ALBERTA

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H. Lash - Maynard Ex.

MR. WRIGHT: (Cont.) was that it may have been even telephonic communication -- not necessarily a meeting.

Q MR. MAYNARD: That's right, there was reference made to a meeting, and there was reference made later on to a possible telephone communication; but you have no first knowledge of the matter?

A No.

Q And of course Mr. Judge is now dead.

A Yes.

Q You mentioned yesterday that there were discussions -- differences of opinion -- I forget the word you used -- not heated arguments but you used another word -- with Mr. Hooke, in connection with various matters. Do you recall this?

A I recall something about this yesterday.

Q Did you ever have any discussions, violent discussions with Mr. Hooke concerning the Town of Hinton?

A Well, we had discussions about Hinton ad nauseum.

Q Well, this goes back a long time. I'm interested, Mr. Lash, in obtaining from you, if you can recall, what your recommendations were in connection with the development at Hinton.

A Oh, this is a sad history.

Q Well, let's not take too long. Could I put one or two questions to you? Do I understand that at the outset you favored the development of the new Town of Hinton?

A Yes.

2-M-15

H. Lash - Maynard Ex.

Q To the exclusion of the old Town of Hinton?

A There was no question of the old town in the first instance.

Q But later on there was?

A Yes.

Q And you felt that the development should be restricted to the new town?

A Yes.

Q And, do you recall -- .

A May I explain -- put it this -- a different way. I think the trouble with the new town was -- there was trouble with the new town, it wasn't -- for various reasons what the developers were doing was not satisfactory. I did not feel that the way to cure this was to develop a nearby town in competition. This was my -- .

Q Do you recall who the developers were in the new Town of Hinton?

A A person by the name of Reuben was involved -- also had money or something in the paper mill itself -- or the pulp mill.

Q And was there any disagreement with Mr. Hooke as to where the development should take place?

A It could very well be; I don't remember.

Q You said you had discussions ad nauseum?

A Yes.

THE COMMISSIONER: Yes, I think we will adjourn, Mr. Maynard.

(Proceedings adjourned at 11:16 a.m.)

3-B-1

H. Lash - Maynard Ex.

THE COMMISSIONER: Mr. Maynard?

MR. MAYNARD: Thank you. Mr. Lash, when we adjourned

I was questioning you about Hinton and disagreements you might have had with Mr. Hooke in connection with the development of the New Town of Hinton or the Old Town of Hinton, I don't know just where we got in the process but I will ask you again: was there in fact some disagreements between yourself and Mr. Hooke as to what should or should not be done about the development in the area?

A Yes.

Q And that there were violent discussions in relation to this matter?

A Well, discussions, I don't think they ever got too violent.

Q Is it also fair to say that you had differences of opinion with Mr. Hooke on other matter, development matters, throughout the Province?

A Yes, quite often.

Q These differences of opinion were on matters of policy?

A Matters of policy, matters of what should be decided in a specific case on the merits of a case.

Q And during these discussions, of course, Mr. Hooke would support his point of view and would try and convince you that his point of view was right?

A Yes.

Q And you would support your point of view and try and convince Mr. Hooke that his point of view was right?

A That my point of view was right.

3-B-2

H. Lash - Maynard Ex.

Q I am sorry, that your point of view was right?

A Yes.

Q Did it ever get to the point where Mr. Hooke took the stand with you "Well, I am the Minister, and what I say goes."?

A Let me say that I was a good enough Civil Servant and never let it get to that point.

Q Well then, could I inquire whether your differences of opinion with Mr. Hooke ever became bitter?

A No.

Q You maintained friendly and businesslike relations at all times?

A I might be mad for a couple of days but never bitter.

Q Was there any time that he might have been mad too?

A Oh, yes.

Q Did it ever occur to you throughout these discussions when Mr. Hooke put the problem to you that he and the Government were responsible to the public of this Province for the policies that were carried out?

A Of course, this is why, what a Civil Servant has to know.

Q The responsibility was with Mr. Hooke and with the Government and you realized this?

A Yes.

Q And, of course, you were prepared to accept his position?

A Yes.

Q Fine, thank you Mr. Lash, that's all.

THE COMMISSIONER: Mr. Gill, have you any questions arising out of the additional evidence adduced?

3-B-3

H. Lash - Wright Ex.

MR. GILL: No, thank you.

THE COMMISSION: Mr. Bowen?

MR. BOWEN: No sir.

THE COMMISSIONER: Mr. Crawford?

MR. CRAWFORD: No sir.

THE COMMISSIONER: Mr. Wright?

MR. WRIGHT EXAMINES THE WITNESS:

Q Yes, one aspect I can shortly cover. You told Mr. Maynard, Mr. Lash, that you were literally, from reading the questions and answers, wrong yesterday when you said that you never signed a plan of the development at all before Mr. Hooke had signed; but I gathered from your explanation that you were talking about an outline plan for all of Campbelltown, this was never signed by you prior to Mr. Hooke's signature?

A Yes, I must admit though that when I was giving evidence yesterday I had in fact the wrong impression in mind.

Q Yes, you thought you hadn't signed any plan at all?

A Yes.

Q But it turns out you did sign some, evidently and apparently an outline plan for the first neighbourhood?

A Yes.

Q Which we now know as Sherwood Park proper; but Mr. Hooke's signature was the first signature on a plan, an outline plan for the whole development?

A As far as I know.

Q Yes. Could you please read out to us this short memorandum from Mr. Gerhart to you of the 9th of November 1954, numbered

3-B-4

H. Lash - Wright Ex.

Q (Cont.) 23 in Exhibit 187?

A It is a memorandum from Mr. Gerhart to Mr. Judge.

Q I am sorry.

A With a notation in Mr. Judge's handwriting sending it on to me.

"The Honourable Mr. Maynard has advised that the agreement between Mr. Campbell of Campbelltown and the Municipal District of Strathcona has been investigated and found to be in order. As there is some urgency in the matter it is requested that the plan in connection with Campbelltown be approved immediately and Mr. Campbell so advised."

It is signed "Mr. Gerhart".

Q Yes. Now, just have a look at these two applications which you approved, numbers 264, 265; they are both of them in the South West Quarter of Section 27, are they not?

A Yes.

Q 265 being "all of the" South West?

A Yes.

Q "all of ..."?

A "all of ...", yes.

Q And now, were your approvals of these as a result of that direction from the Minister or off your own bat?

A Well, these are both June '55, and the memo is November '54.

Q Yes, but the evidence has been also, I believe, that some outlineplan was approved also in November 1954, is that correct?

3-B-5

H. Lash - Wright Ex.
- Maynard Ex.

A Yes, that's it, I believe so.

Q And the approvals of these followed on the outline plan approved in November 1954?

A Yes.

Q And so my question really relates to that plan approved by you in November 1954, may we take it that it was as a result of this memorandum dated the 9th of November 1954?

A Yes.

Q And not something off your own bat or that you had any say about, in point of fact, by this time?

A It was the logical consequence of all the events that had taken place.

Q Yes, thank you.

THE COMMISSIONER: Anybody else? Mr. Maynard?

MR. MAYNARD EXAMINES THE WITNESS:

Q Just one question relating to this. This memorandum that you refer to, 1954, was written after Mr. Gerhart had discussed this whole matter with the Cabinet?

A Yes, I believe so.

Q Thank you.

THE COMMISSIONER: Mr. Clement?

MR. CLEMENT: Well, no, that is much the same question as I had in mind, sir.

I think I would like to say this: you recall that Mr. Dant gave some evidence respecting a search for documents in the files of the Government, particularly the Provincial Planning Advisory Board, and he brought forward all that he

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H. Lash - Maynard Ex.
- Clement Ex.

MR. CLEMENT: (Cont.) could find. These additional documents that were put in evidence this morning were not located in the Governmental files, as I am informed by Mr. Maynard. He thought to go to the Land Surveyor who signed a number of these subdivision plans and see whether there is anything in their records which might assist this Inquiry. As I understand it it was from that source that this, these additional documents have been obtained. I just want to make it clear, sir, that there has not been any lack of effort on the part of the Government in producing what records it does have. They still do not have these records, they were got from a different source.

THE COMMISSIONER: I see, fine. Thank you, Mr. Clement.

MR. CLEMENT: I don't think I have anything more.

THE COMMISSIONER: Gentlemen, I understand that Mr. Lash proposes to catch a plane this afternoon to return to Montreal, so that unless there are any other questions to be directed at him I am going to release him. So, Mr. Lash, you are -

MR. CLEMENT EXAMINES THE WITNESS:

Q Sir, there is just one small point of curiosity in my mind I had overlooked. It is in relation to Exhibit 264, and I am not sure where that one is now.

MR. WRIGHT: It is on the desk there.

Q MR. CLEMENT: Exhibit 264, Mr. Lash, is an application of June 14th 1955 signed by Mr. Usher and relating to a part of the South West of 27, and there is annexed to it a plan

3-B-7

H. Lash - Clement Ex.

Q (Cont.) which is called a "tentative plan"; just to clear my mind, is that correctly described as a "tentative plan"?

A Well, this is what the surveyor describes as a "tentative plan", it would be correctly described as such.

Q I see.

A The practice on small subdivisions was at the time where the, it was a practice by surveyors, they would quite often survey and prepare the final plan and drawings, and then they would simply take a blueprint of this, adding the words "tentative plan", and have this approved. This appears to be what was done here.

Q And then the subdivision plan would be a repetition of that?

A Yes, with a change in wording.

THE COMMISSIONER: Am I correct then, Mr. Lash, in concluding that a tentative plan can refer both to a plan of what is to become a plan of subdivision and it can also refer to an outline plan?

A No, I am afraid that is not correct, sir. A tentative plan must contain certain information as set out in the subdivision regulations, is to be accompanied also by an application form.

THE COMMISSIONER: Well, this plan here with your memorandum attached, would you describe that as an "outline plan" or a "tentative plan"?

A That would be an outline plan.

THE COMMISSIONER: An outline plan?

A Yes.

3-B-8

H. Lash - Maynard Ex.

MR. MAYNARD EXAMINES THE WITNESS:

Q Mr. Commissioner, I think I can clear up this matter, I was puzzled by it also. The reason why this is called a "tentative plan", and I will confirm this with Mr. Lash, is because the survey was carried on after approval had been given by the Commission or by the Board for the plan. The plan was submitted on the 14th of June 1955, approved on June 15th, 1955, but the affidavit of the surveyor indicates that the actual survey was carried out only, was carried out between June 22nd and June 24th, 1955; so that to the extent that the survey had not yet been made it was a tentative plan?

A Yes.

Q Once the survey had been made then it became a subdivision plan and was registered, is that correct?

A No.

Q Well -

A It doesn't necessarily follow because surveyors quite often in fact carried out the survey and put their stakes in the ground before they even had tentative approval.

THE COMMISSIONER: Mr. Clement, could I see Exhibit 170, please?

MR. CLEMENT: 170, sir?

THE COMMISSIONER: Yes.

A This was up to them, they were taking a chance, you know.

THE COMMISSIONER: The plan with -

MR. CLEMENT: That is 175 I think, sir.

3-B-9

H. Lash - Maynard Ex.

THE COMMISSIONER: Yes, I am sorry, 175.

MR. WRIGHT: The original is 175.

THE COMMISSIONER: It has been around here loose, we have used it an awful lot of times.

MR. CLEMENT: Yes, I know exactly what it is, it is just a matter of locating it, sir.

MR. WRIGHT: Anyway here is, here it is, My Lord, that is the original that the photostat is from. The other one is simply a photostat of that, My Lord.

THE COMMISSIONER: This is not identified.

MR. WRIGHT: No.

THE COMMISSIONER: I want to see that Exhibit 175.

MR. WRIGHT: Fine.

THE COMMISSIONER: We used it this morning several times.

MR. CLEMENT: Oh, yes.

THE COMMISSIONER: I just want to make clear that I have a correct understanding of the designation of these plans. We had it here this morning several times.

MR. CLEMENT: I know, I know.

MR. SHORT: It is the one with that memo on.

MR. CLEMENT: Well, we better get busy and find it.

MR. SHORT: Here it is.

MR. WRIGHT: It was in the right place, that is the trouble.

THE COMMISSIONER: Is that a tentative plan or an outline plan, Exhibit 175?

A This is not a tentative plan, it is an outline.

3-B-10

H. Lash - Maynard Ex.

THE COMMISSIONER: Exhibit 175?

A Yes.

THE COMMISSIONER: What is that?

A This is an outline plan.

THE COMMISSIONER: All right, and Exhibit number 170?

A That can be described as a "tentative plan". The difference is in the amount of details shown. A tentative plan must show the individual lots, it must show the measureable width of streets and other details and this, an outline plan or overall plan does not show that.

THE COMMISSIONER: Thank you, Mr. Lash. Now, gentlemen, are there any other questions to be directed to Mr. Lash? Mr. Lash, I wish to thank you for coming all the way here from Montreal to assist this Commission. You may now leave.

A Thank you.

(Witness steps down.)

3-P-1

E.R. Hughes - Clement Ex.

MR. CLEMENT: Mr. Commissioner, the flow of evidence will be a little disjointed now, it is very difficult to get the sequence going but we will have to do the best we can.

Mr. Hughes has been in attendance here off and on for some time and I am calling him in respect of transactions involving the North West Trust Company back in 1958 and basically his evidence will have to deal with Exhibit 116 and the three documents referred to in that Exhibit.

Mr. Hughes.

ELBORNE ROBERT HUGHES, sworn, examined by Mr. Clement:

THE COMMISSIONER: You may sit down Mr. Hughes.

Q MR. CLEMENT: Mr. Hughes, the period of time to which I will direct your attention was 1958, in that year, and for some time before and after, you were Deputy Provincial Secretary of the Government of the Province of Alberta?

A That is right.

Q And you have since retired?

A Yes.

Q In order to bring your mind to bear on the matters in question, I show you Exhibit 254 which is a memorandum signed by you and a copy was sent, apparently by you, to the Registrar of Companies?

A Yes.

Q And the Registrar of Companies was under your jurisdiction

3-P-2

E.R. Hughes - Clement Ex.

Q (cont.) as a branch of the operation of the Department of the Provincial Secretary?

A Yes.

Q Now, could you -- do you recall Mr. Hughes the circumstances which led up to the writing of that memorandum?

Mr. Commissioner you could-perhaps don't have a copy of that before you, Mr. Hughes might well read it in order that we may get the context of the matter. If you would read it out loud Mr. Hughes?

A It is a memorandum for file. If I might interject here, I made a practice in my administration in not trusting my memory too much and I had a large Department so I usually put a memorandum on the file of almost anything that transpired. Memorandum for file, dated June 2nd, 1958

"Re The North West Trust Company Limited about May 8th, Dr. Allard telephone me asking if it would be possible to have an early decision so that the proposed company could come to a conclusion with regard to the purchase of a building they had in mind to use. I telephoned Mr. Hooke who has previously instructed that this matter be held in abeyance pending further discussions by the Cabinet Committee of the whole question of Trust Companies. Mr. Hooke advised that this matter should not be delayed any further. I advised that this company asked that further consideration be given to the

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E.R. Hughes - Clement Ex.

A (cont.)

"requirement that \$50,000.00 of the company's capital should be invested in bonds. Mr. Hooke instructed that he considered we should stand by this requirement rather than agree to the alternative suggested in Mr. Macdonald's letter of April 21. I, therefore, telephoned Dr. Allard and Mr. Macdonald and advised them accordingly. E.R. Hughes, Deputy Provincial Secretary"

initialled by me and "cc Mr. Warr, Registrar of Companies" so that my Branch head would know what had transpired.

Q MR. CLEMENT: What interest did Mr. Hooke have at this stage in the administration of the matters under your charge?

A He was my Minister and this had arisen when an application had been received on behalf of North West Trust Company for registration as an active trust company.

Q What had its status been prior to that?

A It had been, as I remember, incorporated about 1911, I looked up the records recently and I believe that was the date and had been maintained as an inactive trust company under the provisions of the legislation in force at that time in the Trust Companies Act and the application was for registration as an active trust company.

3-P-4

E.R. Hughes - Clement Ex.

Q And what was involved in such an application then Mr. Hughes?

A Ordinarily it would have been a matter of more or less routine, in fact, another exactly similar case had been dealt with as routine some few months before.

Q What company was involved in that application?

A The Farmers and Merchants Trust Company.

Q Yes?

A But when the second application for a similar, came to me, notwithstanding the fact that the other company had been foreign capital, foreign interests, and this was local interests, the other company was foreign interests that were promoting it, non-Canadians were promoting it, this being the second application I thought it was a matter of sufficient concern on policy to refer the matter to my Minister because of the fact that the Trust Companies Act, in my estimation, provided completely inadequate protection for the public who might invest in what they call guaranteed savings investment certificates. /The legislation had been in force for many years and hadn't been looked at and probably was adequate for the trust companies operating at that time who had large reserves but, a new one starting up hadn't built up those reserves and, in the interests of the public I thought it desirable, to call it as a matter of policy, to my Minister's attention that something drastic should be done about the Trust Companies Act, to amend it

3-P-5

E.R. Hughes - Clement Ex.

A (cont.) to provide further protection for the public and suggested that in the meantime we consider placing requirements beyond those fixed in the Act, that was under consideration at that time. /

Q How would that have been accomplished Mr. Hughes?

A The suggestion was that we place limitations on their investments and require liquidity of capital to meet possible claims as a result of cashing in savings.

Q By limitations of investments, you mean limitations in the sense that the investment would provide adequate realizable security?

A That is right.

Q Roughly analogous to the British and Canadian Insurance Companies Act provisions relating to investments?

A At that time we were thinking more in terms of having larger paid up capital than the Act required.

Q I see. That, to implement, would have had to wait the next session of the Legislature I presume?

A That is right.

Q Then, as I gather from your evidence, an application to bring a trust company from the inactive list to an active trust company required contributions of capital of a substantial nature under the then Act?

A I do not recollect the legislation closely enough to remember.

Q Well you had in mind that North West Trust Company, in order to be licensed as an active trust company would have

3-P-6

E. R. Hughes - Clement Ex.

Q (cont.) to fulfill some requirements which it didn't have to as an inactive trust company?

A That is right.

Q Just the general nature of those requirements?

A Although I believe it could have been registered as an active trust company without any further requirements, other than what it had at that time as I think it could meet those requirements but, my recommendation was that there be certain specified further requirements before it become active.

Q Oh I see, and then what was the course of development then?

A From my recollection Mr. Hooke asked me to hold the registration, asked me to instruct Mr. Warr to withhold the registration of North West Trust Company until the Cabinet had a chance to review the whole trust company situation and deal with my recommendation for extensive amendment to the Trust Companies Act.

Q Yes. At what point in the matter then was your memorandum written, was it written while this was still under consideration?

A This was written sometime I believe after the matter had been referred to Mr. Hooke and as a result of a request to me, I asked Mr. Hooke for a decision because it appeared to be unfair to leave the matter without a decision one way or another.

Q Yes. Am I correct then in this Mr. Hughes, that so far as

3-P-7

E. R. Hughes- Clement Ex.

Q (cont.) your recollection now goes, speaking strictly according to the Statute, the North West Trust Company would have qualified to become active and that it was your concern in the public interest that was holding the application up?

A That is my recollection.

Q Yes, and then what was the ultimate disposition of the matter?

A The ultimate disposition was that they were granted the right on certain conditions to be registered as an active trust company. This, of course, because the time before we hadn't had anything like the Atlantic Finance which was in the East, they had similar legislation --

Q You were just looking forward to possible?

A Possible and, fairly significant developments in the other trust companies that made it necessary for us to quickly place requirements.

Q Yes?

A But, as far as the registration of this, really, I had pointed out that having granted a registration to another trust company, not local interests --

Q And we are speaking now of Farmers and Merchants?

A That is right, it would be quite inequitable to place any requirements on this other company that hadn't been requirements that must be met by Farmers and Merchants.

Q Well now, I show you Exhibit 256 and perhaps it will refresh

3-P-8

E. R. Hughes - Clement Ex.

Q (cont.) your memory Mr. Hughes, that was a memorandum written by you, I take it a memorandum for the file?

A No, it was a memorandum to Mr. Hooke.

Q Oh, to Mr. Hooke, excuse me.

A Yes, I remember this memo.

Q Well, then, with that in front of you, would you give us a little more detail in the course of developments, what recommendations were made against North West Trust Company for its license to become active?

A May I have that question again?

Q With that before you Mr. Hughes, can you not tell the Inquiry whether you, whether and if so what conditions you imposed on North West Trust before granting it a license?

A My recollection, among other things, they must have \$50,000.00 in Dominion or Provincial bonds.

Q Yes, contributed by what means?

A By means of capital of the company.

Q I see, contributed capital by shareholders?

A Subscribed capital, that is right.

Q Yes. I think that Exhibit then refers to some amendments to the articles of association?

A It refers to an attached consent to amendment of the articles. When North West Trust Company was incorporated under the Companies Act, there was a provision in its articles that they should not be amended without the written consent of the Provincial Secretary, as I remember.

Q Yes?

3-P-9

E. R. Hughes - Clement Ex.

A As I recollect, there was no such requirement in the articles of the other trust company, the Farmers and Merchants and in equity it was considered they should be treated on the same basis and therefore the application came from the solicitors of North West Trust Company to have their articles amended in such a way that they would be on the same basis as the Farmers and Merchants. As I recollect, the articles were somewhat dubious any way, they were somewhat doubtful, seemed to be a little conflicting. I don't remember what the conflict was.

Q Exhibit 255 is a letter written by Bisset Matheson and Company to the North West Trust Company indicating that a copy of it was sent to Mr. Warr. This deals, I think, with the \$50,000.00 you mentioned. Was that letter brought to your attention at any relevant time Mr. Hughes?

A I believe it was.

Q Do you have any particular comments to make on it?

A No, it was a matter of routine I believe, complying with the requirements, indicating that they had complied with the requirements.

Q What was the upshot of the application, I take it obviously the license was granted to North West Trust to become active?

A They were registered as an active trust company.

Q Yes, and it was required to provide additional subscribed capital in the amount of fifty thousand?

3-P-10

E. R. Hughes - Clement Ex.

A Yes.

Q And invested in proper securities?

A Yes.

Q And maintained in proper investments?

A On encumbered investments.

Q Yes, exactly sir. Now, throughout the whole of this period, from the time the application was first made for reinstatement, up until the time the license to carry on an active trust company business was granted, would you tell the Inquiry what discussions or communications you had with Mr. Hooke beyond what is shown in the papers there already?

A I do not recollect that far back any discussions, other than that I urged that we view with some concern the apparent pattern on the second application for a similar thing. The concern, the matter of activating, letting a trust company become an active trust company and starting up under the inadequate protection for investors that was in our Trust Companies Act and that we should, as soon as possible, revise our Act, amend our Act very appreciably to place strict limitations on investments and also have increased capital over and above the requirements of the Act as it was in force at that time.

Q Yes, and then it was your conclusion that since the applicant was in fact complying with the requirements of the law as it then stood, it would be unjust to withhold the license for an indefinite period of time?

A Yes.

3-P-11

E. R. Hughes - Clement Ex.

Q Were you influenced by any outside person including Mr. Hooke to grant the license?

A No.

Q Did you have any communication from Dr. Allard direct on the matter?

A I think Dr. Allard was in my office once with his solicitor, in the preliminary discussions when, and I know he phoned me, according to my memorandum, in trying to activate it but that was a matter of requests that the application be dealt with.

Q Yes. Nothing unusual or peculiar about any of the conversations you had with Dr. Allard?

A Nothing whatsoever. My concern was the public concern with another influence. At that time personally, I was somewhat concerned as a Westerner that all the profits from trust company operations were draining off to Eastern Canada and I had mentioned, I believe, on more than one occasion, that it would be very desirable if we had some local trust companies operating in the West so that the profits would stay in the West and, that was my personal influence. That has never been suggested to me by anyone else. Maybe Dr. Allard had advanced that and, if he did I was in sympathy.

Q In coming to that view, which I am sure all Westerners would welcome, you didn't have any particular person in mind?

A None whatsoever, no.

Q Just for the general good of the economy of the West and of Alberta in particular?

A That's right.

3-P-12

E. R. Hughes - Clement Ex.
- Gill Ex.

Q Would you answer my friends please?

THE COMMISSIONER: Mr. Gill?

MR. GILL: Thank you.

MR. GILL EXAMINES THE WITNESS:

Q Mr. Hughes, Mr. Hooke was Provincial Secretary for what period?

A May I refer to a note? It is a matter of a little homework, in looking back.

THE COMMISSIONER: Yes.

A I had many Ministers over quite a long career and to remember, I thought that question might be asked so I -- Mr. Hooke was Provincial Secretary from June 1st, 1943 until, I believe, August '48 and, he was Provincial Secretary from August 2nd, 1955 to September 1st, 1959.

Q MR. GILL: And that latter period , August 2nd '55 to September 1st, '59, did he hold another portfolio?

A I think so but I don't remember.

Q Was he also Minister of Municipal Affairs?

A I can't answer that.

Q I see, but in the period that Mr. Clement has taken you through, it was Mr. Hooke who was the Provincial Secretary?

A Yes.

Q And your immediate superior?

A Yes.

Q And in your memorandum, Exhibit 254, you refer to a letter from a Mr. Macdonald on April 21st?

MR. STEER:

Which memo Mr. Gill?

3-P-13

E. R. Hughes - Gill Ex.

MR. GILL: The memo Exhibit 254, I think made June 2nd, 1958, signed by yourself with a copy to Mr. Warr?

A Yes.

Q And that is the memo that reads about May 8th Dr. Allard telephoned you asking if it would be possible to have an early decision?

A Yes.

Q And down at the last little bit; "Mr. Hooke instructed that he considered we should stand by this requirement rather than agree to the alternative suggested in Mr. Macdonald's letter of April 21st." Is that correct?

A That's right.

Q Now, what was the alternative suggested in Mr. Macdonald's letter of April 21st, do you have that?

A The letter of April 21st, not at the moment.

Q You don't have it?

A I don't have it. It is a matter of record.

Q Well, while my friends are endeavouring to find it, I wonder, can you tell me when your Department first received the application to re-activate North West Trust Company as an active Trust Company?

A No, I can't tell you that, that was handled by the Registrar, policy matters were referred to me.

Q I see but, when did it first come to you for a policy decision?

A I wouldn't be sure but from recollection probably maybe a month before I wrote this memorandum, maybe April or May.

3-P-14

E. R. Hughes - Gill Ex.

Q Well you wrote the memorandum Exhibit 254 on June 2nd?

A Yes.

Q Of 1958?

A Yes.

Q And you referred to a telephone call from Dr. Allard on May 8th?

A Yes.

Q So by at least May 8th, you were on a telephone basis with Dr. Allard?

A Yes.

Q And Mr. Macdonald's letter that you refer to is dated April 21st in this memorandum of June 2nd?

A Yes.

Q So it would be sometime before April 21st that the application came across your desk on a matter of policy?

A Yes.

Q And what was the problem, why would it come across your desk if it was an ordinary routine application?

A Because in the meantime our registration of another trust company had indicated that we should have more stringent requirements than our Act specified, our Trust Companies Act.

Q Well, on March 24th, 1958, isn't it correct that on the recommendation of Mr. Hooke, that other trust company, Farmers and Merchants Trust, their certificate was cancelled?

A Suspended, I believe.

Q Suspended and they couldn't do business, is that correct?

3-M-1

E. R. Hughes - Gill Ex.

A I don't think they could -- I think -- I think they could not solicit business but they had an operation and they weren't cut right off in the operation.

Q Do you have a copy of Order-in-Council No. 447/58?

A It's a matter of record.

Q I suggest that was the one of March 24th, 1958, that effectively -- and I will return to the word -- "cancelled" the certificate. My learned friend tells me -- my learned friend Mr. Friedman tells me that Mr. Hughes is retired and does not have access to the files, and that he will produce the Order-in-Council that I am dealing with; but you did know, Mr. Hughes, that in March of 1958, Farmers & Merchants were either cancelled or suspended?

A I did know; I had been the instigator of the Order-in-Council, and the -- after a discussion with senior government officials, including the Provincial Auditor, the Deputy-Attorney General and myself -- and maybe somebody else, because I had a committee; I didn't want to act on it on my own because I thought that I had better have better minds than mine apply them to the situation that had developed, so we had a meeting and I pointed out to that meeting the shortcomings of our legislation and what was transpiring so far as this other company was concerned.

Q As far as Farmers & Merchants?

A Yes.

Q Did you draw the Order-in-Council?

A No, I wouldn't draw the Order-in-Council; I may have

3-M-2

E. R. Hughes - Gill Ex.

A (Cont.) drafted the recommendation for the Order-in-Council, on which the Order-in-Council was based.

Q Was it provident or accident that led to the application of North West Trust, apparently at the same time Farmers & Merchants was cancelled or suspended?

A Your question -- was it provident?

Q Or accident.

A That this other application -- ?

Q Came in while Farmers & Merchants was suspended?

A I don't know whether it was provident or accident.

Q But the application, to your recollection, of North West Trust came in at the time that Farmers & Merchants had been suspended?

A It may have come in before.

Q That would be before March, then?

A It would be before March, yes.

Q I wonder, Mr. Friedman, if you could produce the record of when the application of North West Trust was received by the Department of the Provincial Secretary.

MR. FRIEDMAN: If they are available.

A I'm not sure whether there was an actual application. I think it was a verbal request to the Registrar for consideration and discussion as to what would have to be done to achieve registration as an active trust company.

Q Do you accept applications in that manner?

A There are frequently solicitors discuss with the Registrar the requirements that will have to be met before there is

3-M-3

E. R. Hughes - Gill Ex.

A (Cont.) registration.

Q Do you recall when the certificate of Farmers & Merchants was reinstated?

A I don't know --- I think it was maybe August or September.

Q My information is that it was August 5th, 1958, by an Order-in-Council.

A Well, that is a matter of record.

Q And when did you finally grant a certificate to North West Trust to participate in the active business of a trust company?

A May I refer to a note I made in that connection from the files? July 23rd, 1958, I understand, was the date of the registration of North West Trust Company as an active trust company.

Q So you registered it while you were still dealing with the matter of the \$50,000.00; is that correct?

A I was not Registrar. The Registrar registered it, but it would be with my knowledge and direction, because it had been referred to me.

MR. STEER: The documents, I don't think, bear that out, Mr. Commissioner.

Q MR. GILL: Might I see Exhibit 255, please, the letter of August 13th? It's on the table. We have in evidence a letter of Mr. Macdonald of the law firm Bissett & Matheson, solicitors to North West Trust, on August 13th, 1958, addressed to North West Trust with a copy to Mr. Warr, which you identified this morning earlier, and it discusses

3-M-4

E. R. Hughes - Gill Ex.

Q (Cont.) the matter of a letter of July 29th, disbursing \$23,842.69 to our brokers for school and telephone bonds, and discusses the further sum of \$26,157.31, upon delivery of Dominion Bonds on or about September 2nd. This is some time, is it not, after the actual certificate was issued?

A Yes.

Q Why would that be?

A Probably the people interested in North West Trust Company did not want to proceed to make investments for the Company until they were assured that they had registration, and therefore they had the registration before investing their money.

Q But these were funds which were secured to the Government, were they not, and put up by the shareholders of North West Trust?

A How do you mean, secured?

Q Wasn't the \$50,000.00 forwarded to the Government of Alberta? Or was it just an investment by North West Trust?

A I don't think there were deposits required under the Trust Companies Act; it was a matter of them meeting the requirements of the Act by having the funds and keeping them themselves, and keeping them invested in such a way as to meet the requirements of the Act.

Q Namely, that they be invested in bonds?

A Yes.

Q Well, you wanted some further requirements, did you not, Mr. Hughes? You didn't want just the requirements of the Trust

3-M-5

E. R. Hughes - Gill Ex.

Q (Cont.) Companies Act as it then was in the summer of 1958?

A That's right.

Q And what were your further requirements?

A That they should not advertise that investment certificates were guaranteed by the Government, that they should not have their investments -- they should set the fifty thousand in bonds rather than invested in properties, and that as a forewarning, when their liability to the public increased, further capital requirements would be requested.

Q Were these requirements met by North West Trust before July 23rd, 1958?

A They had agreed, as I understand it, that they would do -- make the investments along the lines that we had required.

Q And you insisted that North West Trust post security of \$50,000.00?

A I do not think so.

Q But you would direct what bonds this \$50,000.00 sum was invested in?

A No. -- that they be invested in Dominion, Municipal or Provincial Bonds, or, I believe, in accordance with the Trustee Act of Alberta.

Q Securities that are permitted under that Act to a trust company?

A That's right.

Q You didn't want them investing in property?

A Or in common stocks.

Q Or mortgages at that time, with that particular \$50,000.00?

3-M-6

E. R. Hughes - Gill Ex.

A That particular fund, no mortgages, yes.

Q Did you know of any relationship or association between Mr. Hooke and Dr. Allard?

A I did not.

Q And you said you had preliminary discussions with Dr. Allard. Do you remember when that was?

A I believe shortly after the request was made to the Registrar for consideration of registering North West Trust Company as an active trust company.

Q And did you have discussions concerning North West Trust with anyone other than Mr. Hooke, Dr. Allard, and your Registrar, Mr. Warr?

A With the company's solicitors, as I remember only, Mr. Macdonald, yes.

Q I see.

A He had spoken to me, I think, on the phone, and also was in my office with Dr. Allard in the discussion when I explained the reason why the Registrar had not granted registration as an active trust company as a matter of routine.

Q Now, at the same time were you having discussions with representatives of Farmers & Merchants Trust to try and be reinstated?

A I do not recollect any personal discussions I had with those, with the officials of Farmers & Merchants at that time.

Q But eventually you did recognize their case and reinstate

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E. R. Hughes - Gill Ex.

Q (Cont.) Farmers & Merchants Trust?

A The Registrar did.

Q On your instructions?

A On a conclusion reached after consideration by the Registrar and other government officials. I was away at the time at a meeting in the East, and they dealt with ways and means of permitting Farmers & Merchants to continue business.

Q Now, speaking personally for yourself, on July 23rd, 1958, were you away then when North West Trust was certified?

A I don't know, I don't remember.

Q Were you personally satisfied that North West Trust fulfilled your requirements on July 23rd, 1958?

A Yes.

Q Personally?

A Personally.

Q Did you ever later have cause to suspend North West Trust Company?

A No.

Q And have you since discussed the affairs of North West Trust Company with Mr. Hooke?

A Not to my recollection.

Q Or with Mr. Holloway, by any chance?

A Holloway? No -- Mr. Holloway -- .

MR. CLEMENT: My friend is just surveying the scene.

MR. GILL: Mr. Holloway was in most scenes and

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E. R. Hughes - Gill Ex.
- Bowen Ex.

MR. GILL: (Cont.) I wondered if he was in this one. Just fishing, but sometimes you catch more than a scrap. Or, with Mr. John H. Campbell?

A Perhaps I owe an apology. I thought Holloway -- I just wanted to be sure I heard "Holloway" and not "Holowach" who was subsequently my boss. I thought Holowach might be relevant, but I couldn't get the relevance of Holloway.

Q Or did you discuss it with a Mr. John H. Campbell, the affairs of North West Trust?

A I have never met John H. Campbell. I don't know him. Have never spoken to him on the phone. I have had nothing to do with him.

Q Thank you.

THE COMMISSIONER: Mr. Bowen?

MR. BOWEN EXAMINES WITNESS:

Q Mr. Hughes, when did you retire from the Government service?

A September 1, 1964.

Q And up until your date of retirement was North West Trust ever relieved of this obligation to invest the \$50,000.00 as specified?

A Not to my knowledge.

Q Did you have any discussion with anyone in your department, or your Minister, concerning relieving the North West Trust of this obligation?

A No. May I amend? We had a committee of the Legislative Council, and we framed a new Trust Companies Act that took over from where we had had administrative provisions, and

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E. R. Hughes - Bowen Ex.

A (Cont.) they had to meet the requirements of this new Trust Companies Act.

Q And when did that occur?

A I believe it was enacted at the '59 Session and postponed for one year, and came into force, I believe, on July 1, 1960.

Q All right. In the interim between the time that North West was activated, and the enactment of the new Trust Companies Act, was there discussion with regard to this \$50,000.00?

A Not to my recollection.

Q Did you have any at all?

A Not to my recollection.

Q Did your department take any steps to ascertain that this \$50,000.00 had been kept invested as required during this term?

A I may answer that generally, that I am sure the Registrar, through his examination, would assure himself of that.

Q Now, I take it, Mr. Hughes, that this was the first time to your knowledge that a trust company had been required to keep \$50,000.00 set aside and apart in bonds or unencumbered securities. Is this your evidence?

A I don't know if it was the first time --- I thought it was a good thing to require at the time.

Q Oh, quite, but were there any previous occasions with other trust companies in which this requirement had been asked for?

A I do not recollect of any trust company making application for

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E. R. Hughes - Bowen Ex.

A (Cont.) registration as an active trust company for many years before 1957.

Q Other than Farmers & Merchants?

A They were 1957, so I said "before 1957".

Q There would be about a year between Farmers & Merchants' activation, and North West Trust's activation?

A No, I think their registration as an active trust company was in December '57.

Q So there would be probably six months?

A Six months.

Q And I think you told us that your reason for the requirement on this fifty thousand was the poor state of the Act and the, perhaps danger to people depositing with the companies; is this correct?

A That's right.

Q Now, why did your opinion change within six months? Why didn't you ask for it in Farmers & Merchants?

A Farmers & Merchants had been registered as an active trust company as a matter of routine, because the Statute permitted them to make application and they were registered, and I was not Registrar, remember, that was -- .

Q Oh, quite, but at the same time, in December of '57, you were aware that Farmers & Merchants were being activated, were you not?

A I don't think I was until maybe January, or -- .

Q Do I take it, then, that Farmers & Merchants were reactivated as a trust company in this Province, without the knowledge

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E. R. Hughes - Bowen Ex.

Q (Cont.) of the Deputy-Provincial Secretary?

A The Registrar's business is -- .

Q Well, can you tell me this, then, why was it different with North West Trust?

A Because in the meantime it had come to my attention that Farmers & Merchants were using advertising that I thought was misleading, and were investing in a manner that I thought required -- did not provide protection to the purchasers of savings certificates.

Q Was any other trust company during this general period, required to put aside \$50,000.00 in bonds?

A No, not to my knowledge.

Q North West Trust was the only one that had this requirement thrust upon them?

A Oh, before they reactivated Farmers & Merchants, I think there was a similar requirement placed on them.

Q I think your evidence was that you met once with Dr. Allard regarding North West Trust, and his solicitor; and how many phone calls did you have with him?

A Only one that I recollect.

Q Was there not some period of time that elapsed up to the registration in which certain matters were being settled between your department and North West Trust, prior to its registration?

A Yes.

Q How long did the negotiations take place between Dr. Allard, or his representatives, and your department?

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E. R. Hughes - Bowen Ex.

A I do not remember, as I said earlier, when they first approached the Registrar to find out what would be the requirements.

Q Do you recall when it was that you first became aware of their desire to activate?

A No, I don't recall.

Q Would it have been in the spring of 1958, Mr. Hughes?

A I think it was the spring, or later.

Q It is my information that there were quite a number of negotiations and meetings. Now, would they be with other people in your department?

A They would be with the Registrar.

Q Would they be with your Minister?

A Not that I know of.

Q Do you have any other memorandums pertaining to North West Trust, or do you have a memory of any other memorandums, other than those you have been shown today?

A No.

Q These are all of them?

A All that I remember, that I personally made.

Q Did you make a memorandum of your personal meeting with Dr. Allard in your office, and his solicitor, I believe, Mr. Macdonald?

A Not to my recollection.

Q I think you told us that you endeavoured to make memorandums, sir, of everything that occurs, on a file.

A Well, of things of importance, but this was a matter that

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E. R. Hughes - Bowen Ex.
- Crawford Ex.

A (Cont.) was being dealt with by the Registrar, and as I recollect, the Registrar was at that meeting, and that was his business, to make any records.

Q Tell me, how was the amount of this requirement -- that is, how was the \$50,000.00 determined, on what basis?

A I don't remember.

Q Did you have anything to do with setting this figure?

A Probably it would be set after discussion.

Q Did you have any discussion with Mr. Hooke concerning the amount that would be required?

A Not that I recollect.

Q Thank you, sir.

THE COMMISSIONER: Mr. Crawford:

MR. CRAWFORD EXAMINES WITNESS:

Q Mr. Hughes, among the requirements for trust companies that were being given effect to in 1958, was there any requirement in respect to speculation in real property?

A Not that I remember.

Q Do you recall, then, that that was -- .

A There was -- speculation -- I think there was -- I will want to qualify my previous answer, because I was thinking in terms of speculation -- . There was, I believe, an application from the solicitors for North West Trust Company to have some of their funds invested in real property in Edmonton. Now, whether it was speculation I don't know, but I think that application was refused because we wanted the money liquid.

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E. R. Hughes - Crawford Ex.

Q So the question of investment in real property would be made the subject of a specific application by the trust company, that could be granted or refused?

A I think it was just a request to the Registrar, can we do it? And he said no; and I think that's all, I think that's about what it was.

Q Well, was that a reflection of the policy of the Provincial Secretary's administration of trust companies?

A No.

Q Whose policy was that?

A That was probably my policy on a new trust company that was starting up without reserves that I thought might be adequate, because other active trust companies, -- they may be called the major ones -- they do invest in real property, but they have reserves in liquid funds, adequate on examination, to satisfy -- while this new one starting up, I considered as a matter of policy, should have that amount available so that -- to use as provision for -- .

Q And did you arrive at that policy without any consultation with the Minister?

A I think so. I think there was discussion with Mr. Warr -- the fifty thousand I had mentioned to him, but I don't think he had any discussion -- I had suggested that that was the amount that it should be.

Q Well, what about the time that an application was made, to the best of your memory, for permission to invest in some real estate in Edmonton, and Mr. Warr apparently said no?

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E. R. Hughes - Crawford Ex.

Q (Cont.) Was that a policy matter referred to the Minister?

A I think that that was probably to me, and I said I didn't think that we should permit any part of that fifty thousand to be invested in real estate, because in the nature of things it wouldn't be liquid.

Q I'm glad you gave me that last answer, Mr. Hughes, because I have been confusing you. I wasn't talking any more about the first fifty thousand, I am just asking if there were requirements for new trust companies laid down by you at that time that forbade them in any way from speculating in real estate, without any reference to the first fifty thousand dollars of capital that was to be treated in a special way.

A I don't remember what the terms of reinstatement of Farmers & Merchants -- which were the guide lines that were laid down -- there may have been something in there that prohibited them from speculating in real estate.

Q Let's say the guide lines were laid down there. Were those the same guide lines that were applied when North West Trust was registered as an active trust company?

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E. R. Hughes - Crawford Ex.

A Those were the guidelines in our minds at that time, yes.

Q They would be the same in both cases?

A They would be similar.

Q Similar?

A Except that there were certain things that I am sure had never been thought of or envisaged by North West that were done by Farmers and Merchants, but in general, generally that would be. As for capital, as for advertising, those would be the guidelines.

Q And I understand your evidence now is that the guidelines that would apply to North West Trust at the time it was recertified or certified would be the same as the ones that had been laid down for Farmers and Merchants, but you don't remember whether it had any special reference to speculation in real estate?

A Yes.

Q Are those guidelines available?

A As a matter of record in an Order-In-Council reinstating Farmers and Merchants Trust.

Q Perhaps I could ask my friend Mr. Clement if that Order-In-Council has been produced to the Inquiry yet?

MR. CLEMENT: No, it has not been put in evidence, we can get it from the library.

Q MR. CRAWFORD: There would be an Order-In-Council reinstating the company in addition to the one that has been produced to me cancelling the company, Farmers and Merchants?

A Cancelling the Farmers and Merchants Trust Company.

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E. R. Hughes - Crawford Ex.

Q Yes. Now, my question, Mr. Clement has already answered it, a copy of the Order-In-Council reinstating the Farmers and Merchants can be produced?

MR. CLEMENT: Oh, there is no question about that.

MR. CRAWFORD: Just a matter of convenience, Mr. Clement, at this point I wonder if Mr. Friedman will be the one to do that?

MR. CLEMENT: Well, as a matter of making a copy, aside from producing the Alberta Gazette, which is probably more convenient -

MR. CRAWFORD: Well, I don't intend to go through the Gazette if I can help it. I think I have Mr. Friedman's answer, he was going to do this?

MR. FRIEDMAN: Yes.

MR. CRAWFORD: Thank you.

THE COMMISSIONER: I guess, Mr. Friedman, you have not got any choice.

MR. CLEMENT: Mr. Commissioner, this has been branching off into a company that is a little different from the one we started with. We started with North West Trust Company. But, since the Inquiry has taken this turn, I would ask Mr. Friedman to have Mr. Warr bring with him not only the records of the North West Trust Company, which I requisitioned, but also those of Farmers and Merchants so that whatever there is in there may be examined properly.

MR. WRIGHT: And, My Lord, could I possibly ask Mr. Hughes to familiarize himself before tomorrow morning with

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E. R. Hughes - Crawford Ex.

MR. WRIGHT: (Cont.) the reasons why the charter of the, or whatever you call it, the certificate of the Farmers and Merchants was cancelled in March of 1958, and the reasons why it was thought expedient to reinstate it in July of 1958.

THE COMMISSIONER: At that point we will adjourn until nine o'clock tomorrow morning.

(And the Hearing stood adjourned
at 1:06 P.M.)

